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St. Helena

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I. General

1. The Territory of St. Helena,[1] which is administered by the United Kingdom of Great Britain and Northern Ireland, consists of the island of St. Helena and two dependencies: the island of Ascension and a group of small islands forming the dependency of Tristan da Cunha.

2. Situated in the South Atlantic Ocean, approximately 1,900 kilometres from Angola and 2,900 kilometres from Brazil, St. Helena is a small island of volcanic origin. The Territory comprises a total land area of 412 square kilometres: Ascension lies 1,200 kilometres to the north-west of St. Helena, and Tristan da Cunha and the other small islands are approximately 2,400 kilometres to the south of it. St. Helena, where Jamestown, the capital of the Territory, is located, is the largest island, with an area of 122 square kilometres. The islands enjoy a tropical climate tempered by trade winds that blow throughout the year. They have distinctive flora and fauna, with many rare or endangered species.

3. The inhabitants of St. Helena, who number approximately 6,000, are known as "Saints" or St. Helenians, and are of mixed origin. Approximately one third reside in Jamestown. English is the only language. Access to St. Helena is provided by the *Royal Mail Ship (RMS) St. Helena*, which stops en route between Cardiff in the United Kingdom and Cape Town in South Africa. The nearest airstrip is located on Ascension.

II. Historical background

4. St. Helena was discovered by the Portuguese navigator Juan da Nova on St. Helena Day, 21 May 1502. It was an uninhabited island. Its existence was kept secret until the English seafarer Thomas Cavendish came upon it in 1588. In 1633 the Netherlands claimed the island but did not occupy it. In 1658 a charter from the Lord Protector of Britain authorized the British East India Company to colonize and fortify the island, which was subsequently settled by the English. Slaves were brought from Africa, Madagascar and the Far East. Chinese and some Indian indentured labourers were brought to work on the island. King George II issued a charter to the East India Company setting out how the island should be fortified and governed. In the charter the King also gave the inhabitants full English citizenship in perpetuity. Napoleon Bonaparte was exiled to St. Helena from 1815 until his death in 1821. St. Helena became a Crown Colony in 1834. In May 2002 St. Helena will celebrate the 500th anniversary of its discovery.

III. Constitutional and political background and developments

5. The St. Helena Constitution Order of 1988, which entered into force on 1 January 1989, replaced the Constitution of St. Helena and dependencies introduced on 1 January 1967. Under the new Constitution, the Governor and Commander-in-Chief, who is appointed by the Queen, administers the Territory. He is assisted by an Executive Council and a Legislative Council.

6. The Legislative Council comprises the Speaker, 3 ex officio members (the Chief Secretary, the Financial Secretary and the Attorney General) and 12 elected members. The Executive Council is presided over by the Governor and consists of the ex officio members and five of the elected members of the Legislative Council. Although a member of the Legislative Council and the Executive Council, the Attorney General has no vote in either body.

7. Elections are held by secret ballot at intervals of not more than four years, by universal suffrage for those aged 18 years and over. While two political parties exist, since 1976 they have been inactive and elections have been held on a non-partisan basis. The most recent general elections were held on 27 June 2001, when 12 candidates representing eight constituencies were elected to the Legislative Council.

8. The judicial system, based on the laws of the United Kingdom, is administered by the Supreme Court (there is a non-resident Chief Justice) and by a Magistrate's Court presided over by the senior of the three magistrates sitting at a session. There is also a Juvenile Court and a Small Debts Court. Provision exists for a Court of Appeal consisting of three judges, which can sit at Jamestown or London.

9. In January 1983, when the British Nationality Act came into force at the end of the Falkland Islands (Malvinas) conflict, St. Helenians had their citizenship rights taken away. Islanders consider that the restoration of full British citizenship is a matter of

basic human rights. In order to support the restoration of full rights of citizenship of those British subjects who are St. Helenian, a Citizenship Commission was set up in 1992 as the Bishop's Commission, by the Anglican Church on St. Helena. The Commission has 13 members on St. Helena and its branch in the United Kingdom has 7 members. Its main activity centres on bringing about public awareness locally, nationally and internationally, concerning citizenship and constitutional development of the Territory of St. Helena and its dependencies.

10. In 1994 the Legislative Council requested a review of the Constitution to include provisions for a bill of rights. The administering Power noted its preparedness to discuss the Constitution with the people of St. Helena. There followed a number of discussions and debates in both the Legislative Council and the House of Commons. More detailed information about political developments in and regarding St. Helena between 1994 and 2001 is included in previous reports (see A/AC.109/2071, paras. 5-8, A/AC.109/2115, paras. 4-8, A/AC.109/1999/16, paras. 4-12, A/AC.109/2000/8, paras. 13-17 and A/AC.109/2001/16, paras. 10-15).

11. On 17 March 1999 the Secretary for Foreign and Commonwealth Affairs of the United Kingdom submitted in the British House of Commons a White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories".[2] The White Paper enumerated the changes in the status of the United Kingdom's Dependent Territories, including the Territory of St. Helena and its dependencies.

12. The stipulations in the White Paper of greatest relevance to St. Helena were an offer of British citizenship, and with it the right of abode in the United Kingdom for those who chose to accept it; a commitment to continuing financial assistance to those Territories, including St. Helena, that remain economically dependent on British aid; and the creation of an Overseas Territories Minister and a Council of the Overseas Territories. The Council would include the Chief Minister of each Overseas Territory and would convene annually. The Citizenship Commission and the elected members of the Legislative Council discussed the White Paper and presented their findings to the Government of the United Kingdom in June 1999.

13. On 11 July 2001 Baroness Amos, Under-Secretary of State for the Foreign and Commonwealth Office, introduced the British Overseas Territories Bill to the House of Lords for its consideration. The bill, inter alia, would replace the words "Dependent Territory" with the phrase "British Overseas Territory", change the term "British Dependent Territories citizenship" to "British Overseas Territories citizenship" and grant British citizenship to everyone who was a British overseas territories citizen at commencement (except for citizens of the Sovereign Base Areas). British Overseas Territories citizens who took British citizenship would retain their other citizenship status unless they renounced it, and would be able to renounce British citizenship if they did not want it.[3] Consideration of the bill was completed in a three-step process in the House of Lords in 2001 and its third reading was completed in the House of Commons in February 2002. It received Royal Assent on 26 February 2002 and became the British Overseas Territories Act 2002. On 18 March 2002 Baroness Amos stated that the British Government was putting into place arrangements to implement the citizenship provisions, the commencement date of which would be announced no later than 21 May. From the date of commencement, St. Helenians would be able to apply for British passports. Baroness Amos also stated that she was particularly pleased that the Act would come fully into effect in time for the celebration of St. Helena's 500th anniversary.[4]

14. Elected members of the Legislative Council and the Citizenship Commission have continued to request that discussions with United Kingdom authorities not be limited to the citizenship issue but also include debate on the merits of different constitutional options for St. Helena, namely the status quo, Crown dependency or integration. In November 2001 the Citizenship Commission met in St. Helena with a constitutional adviser from the Foreign and Commonwealth Office, who also visited Ascension Island. In his 2001 Christmas message, the Governor of St. Helena noted that two thirds of the 63 proposals made by the Constitutional Commission in March 1999 had already been considered by the previous or present Legislative Council and had either been agreed to or rejected. He noted that St. Helena had also received guidance in the form of a model chapter on human rights for incorporation into the new Constitution. The Legislative Council was to consider the remaining proposals and the provisions of the human rights

chapter in January and February 2002 and was to present a package of proposals for public consultation before submitting them to the United Kingdom later in the year.[5]

IV. Economic conditions

A. General

15. In the view of the Citizenship Commission, St. Helena is entering a crisis. The birth rate has dropped, the tax base is shrinking, the population is ageing and income from those working offshore is the mainstay of the economy.[6] According to the country policy plan (2001-2003) of the United Kingdom's Department for International Development, the economy of St. Helena remains dominated by the public sector, with government expenditure equivalent to about 95 per cent of the gross national product. Government employment is about 60 per cent of total employment.

16. St. Helena possesses few natural resources. As food production is insufficient to supply the island's needs and there is a lack of manufacturing industries, the vast majority of the island's requirements must be imported. The cost of living in St. Helena is higher than in the United Kingdom, owing to costs related to the remoteness of the island.

17. In the St. Helena Strategic Review 2000-2010, the Government outlines the options for St. Helena to generate sustainable wealth under the following headings: internal investment, tourism, exports and import substitution. With the exception of the last, all are heavily dependent on significantly improved access (see para. 27 below).

B. United Kingdom development assistance

18. In real terms aid from the United Kingdom has fallen over the last decade, which has had an effect on the St. Helena economy. Approximately 30 per cent of the Government's annual recurrent budget is funded by the United Kingdom's Department for International Development, as is much of its capital investment.[7] In 2000 the Department for International Development and the Government of St. Helena agreed on a new country policy plan for the period from 2000/01 to 2002/03, designed to make the island more self-sufficient by promoting the private sector and raising efficiency in the public sector. The Department for International Development pledged £29 million in development assistance resources, an increase of £3 million over the previous country policy plan period. Within this amount, a budgetary aid allocation of £12.6 million was agreed upon to meet anticipated budget deficits over the next three years, based on budget projections produced by the territorial Government.[8] The development assistance agreed under the country policy plan also comprises an annual subsidy for the operation of the *RMS St. Helena*, as well as support for bilateral development assistance, awards for training in the United Kingdom and a number of infrastructure development projects such as road works and wharf improvement.

19. A team made up of representatives of the Department for International Development and of the Foreign and Commonwealth Office visited St. Helena from 5 to 12 July 2001 to undertake a mid-term review of progress on the country policy plan. The team also discussed the access issue, ongoing and planned projects, and issues relating to Ascension Island. With regard to access, the Government of St. Helena noted its strong preference for an airport (see para. 26 below), and discussions focused on the options for meeting the funding gap between the United Kingdom's commitment to provide funding equal to the least capital cost option (the replacement cost of a ship) and the financial resources needed for the provision of air access. It was confirmed that this commitment would be additional to the regular development assistance programme. The team welcomed the work the Government of St. Helena had undertaken to review and update the country policy plan action matrix and its commitment to take effective measures to secure performance improvements.[9]

C. Development projects

20. St. Helena also receives assistance from the United Nations Development Programme (UNDP). The second UNDP country cooperation framework for St. Helena (DP/CCF/STH/2) covers the period 2001-2004, with allocated regular resources of $1,021,000. The assistance continues to focus on two main multi-purpose projects, one focusing on training and consultancy to support sustainable livelihoods and the

other on employment in the tourism sector and development of the private sector. Reporting at the end of 2001, UNDP noted as principal achievements the publication of St. Helena's first human development report (to be updated in 2005), the technical support provided to the island's Development Office, the expansion of Internet and Intranet networks for the territorial Government, and the procurement of remote sensing equipment to enable St. Helena to monitor offshore fishing in its territorial waters. Regarding tourism sector employment and private sector development, UNDP reports that St. Helena's isolation and relative inaccessibility, as well as the attraction of offshore employment, are limiting progress in this field. Nonetheless, progress has been made in developing nature- and heritage-based tourism, urban tourism, recreational facilities, catering courses, the launching of a tourism web site and the funding of a marketing organization to promote St. Helena's 500th anniversary. In addition, UNDP has funded a project to provide services for the elderly and disabled in order to minimize their institutionalization and help them remain within the community.

D. Agriculture and fisheries

21. According to the St. Helena Strategic Review 2000-2010, land is a scarce resource on the island and is not well used. There are four major uses: commercial, residential, government and amenity. A high proportion of land is classified as "Crown wastes" and protected for reforestation with native species. Most agricultural land is owned by the Government and leased for subsistence activities, mainly for use as pasture with a small amount for cultivation. The Government also owns most forestry land. The Agriculture and Forestry Department provides support to smallholder producers, including agricultural loans, through a revolving credit fund. The principal export crop is coffee, of which 1.597 tons were exported to the United States of America, South Africa and the United Kingdom in 1999/2000. All other crops are for food or fodder. Potatoes are the main carbohydrate staple, although greatly supplemented by imported rice. Livestock includes (in descending order of quantity), poultry, goats, sheep, cattle and pigs. Half of the agricultural production is sold through retail outlets, 42 per cent is sold privately and 6 per cent is kept for household consumption.

22. The St. Helena Fisheries Corporation processes and exports frozen fish. The total value of exports for 1999/2000 was £92,465. The total value of fish processed and sold on the domestic market was £135,581. A number of international companies are licensed to fish in the waters off St. Helena and Ascension Island. Current revenue from fishing licences granted to them is some £733,850 per year.[10]

23. After five years of negotiations, the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean was signed in Windhoek on 20 April 2001. The Convention will lead to the creation of a regional fisheries organization to ensure the conservation and sustainable utilization of fishery resources. Benefits to St. Helena will include the right to participate in high seas fishery, in view of the Territory's economic status and dependence on fishing; the opportunity to develop joint ventures with other regional parties to exploit fisheries and straddling stocks both adjacent to and within St. Helena's 200-mile zone; the opportunity to extend control and surveillance of fishing in the South-East Atlantic; and the opportunity to sit as a member of the commission and committees to be established so as to ensure that its interests are not prejudiced. In exchange, St. Helena is bound to implement conservation and management measures as well as to apply surveillance and reporting mechanisms.[11]

E. Manufacturing and industry

24. There is no large-scale industry on St. Helena. All crafts are produced on a cottage-industry basis, with technical, financial and marketing facilities provided by the Government through the St. Helena Development Agency, established in 1995 to promote the private sector. In financial year 1999/2000, the Agency approved loans totalling £138,115 and grants amounting to £40,832. This financial assistance is focused on industries identified as having the greatest potential for development, namely, fishing, agriculture, tourism, exports and import substitution.

F. Transport, communications and utilities

25. The island has over 100 kilometres of surfaced roads, to which half a kilometre was added in 1999/2000. There is no airport or airstrip on St. Helena, and no railway. The only port is Jamestown, which

provides good anchorage for ships of all sizes. The island's main link with the outside world continues to be the *RMS St. Helena*, which is owned and chartered by the St. Helena Shipping Company, Ltd., and which plies between Cardiff in the United Kingdom and Cape Town in South Africa, calling at the Cape Verde islands and Ascension. The service receives an annual subsidy from the United Kingdom.

26. In the St. Helena Strategic Review 2000-2010, the Government stressed that "the island's extreme aid dependency cannot be reduced until access to the island is fundamentally improved". The territorial Government declared its preference for air access as the most effective way to attract investment and tourism and to create much-needed local employment. In September 2000 the Foreign Office appointed High Point Rendell, a consulting company, to undertake a comparative study of air and sea access to identify the least costly solution. The study, released in June 2001, indicated a price of £38 million for a single runway option, although further study indicated that the cost would be considerably higher due to natural obstacles that would have to be cleared. A dual runway was calculated to cost £50 million. The replacement cost of the *RMS St. Helena* was estimated at £26.3 million.[12]

27. In January 2002 St. Helenians were asked to vote on the question of future access to the island, given a choice between having an airport, with alternative arrangements being made for shipping, or not having an airport, with a replacement for the *RMS St. Helena* instead. A total of 2,203 votes were cast, with 71.6 per cent of voters in favour of an airport and 28.4 per cent wanting a replacement ship. As soon as possible after the vote, it was arranged for a high-level delegation from St. Helena to travel to London for two weeks of discussions, arranged by the Department for International Development, on air access. The talks centred on issues of funding, economic planning and development, and social and environmental impact. The delegation also familiarized itself with current United Kingdom practices on joint ventures between the public sector and the private sector and met with representatives of two private enterprises, namely, the St. Helena Leisure Corporation and Ove Arup. The delegation is due to present its finding to the St. Helena Government upon its return to the island on 5 April 2002.[13]

28. Electricity (generated by diesel and wind power), water and roads are provided by the Public Works and Services Department, which employs approximately 273 workers. The Department's annual expenditure is £1.8 million, and it receives income from the sale of power, water and services, totalling some £1.2 million.

G. Banking and credit

29. The only bank is the Government Savings Bank, which does not offer the full range of normal commercial banking facilities. Limited credit facilities for house-building and home improvements are made available on very easy terms through the Government Housing Loans Board and the Government Savings Bank. All financial transactions are ultimately channelled through London, and United Kingdom bank rates apply. No exchange controls operate on the island, and, to the extent that overseas transactions are channelled through London, United Kingdom control measures apply. The deficit in the island's trading operations is in effect made up through a grant-in-aid from the United Kingdom Treasury. The amount of currency in circulation as at January 2002 was £2.976 million; there are also Commemorative Coins valued at £471,000. The St. Helena pound is equivalent to the pound sterling.

H. International trade

30. St. Helena's main imports are food products and tobacco, motor spirits and fuel oil, animal feed, building materials, motor vehicles, machinery and spare parts. Its only exports are fish (including what is said to be the world's first organically registered wild fish), handicrafts and coffee. Its main trading partners remain the United Kingdom and South Africa. Other partners include Brazil and Ascension.

V. Social conditions

A. General

31. Comparisons of indicators that appear in both the 1987 census and the 1998 census show a steady improvement in St. Helena's standard of living. However, according to the St. Helena Strategic Review, over the same period real wages in the public sector fell by about 16 per cent, while the number of St. Helenians working offshore roughly doubled. Thus,

St. Helena's increased standard of living can be attributed principelly to offshore employment and its related remittances. The team of Department for International Development and Foreign and Commonwealth Office representatives, which negotiated the country policy plan for 2001/02 to 2002/03, states that, measured by international norms, St. Helena is a middle-income country with few signs of real material poverty. However, the team adds that this is largely owing to the all-encompassing government safety net, which guarantees everyone a minimum standard of living, and to social networks, which encourage the distribution of income among kin, most notably in the form of remitances. The country policy plan identifies two particularly vulnerable sectors, namely the increasing number of elderly people (expected to be 24 per cent of the population by 2010) who live on social benefits, and the disabled, who have special, unmet needs. It also points to a "culture of dependency" on the island, partly as a consequence of the Government being the main employer and almost the only provider of services. The Government notes in the St. Helena Strategic Review that the impact that the future restoration of British citizenship may have is as yet unknown, but it adds: "In general, it can be expected that it will be the young people who will leave the island and a high proportion will not return. This will lead to a greater imbalance between young and old and there is every reason to believe that, over time, St. Helena will become an island of the old, poor and unemployable." Faced with this prospect, recent strategic plans for the Territory have been aimed at identifying options to generate sustainable wealth on St. Helena.

B. Employment

32. As a result of the dependence on imports, the paucity of exports and the small size of the internal market, there are limited employment opportunities on St. Helena. The public sector remains the dominant employer. In the mid-1990s unemployment increased rapidly and reached the record level of 20 per cent of the resident workforce in 1997. Since then it has declined to about 14 per cent. Offshore employment has steadily increased, and remittances to St. Helena have helped offset the decline in United Kingdom aid. Some 1,400 of the island's workers are employed on Ascension, in the Falklands, in the United Kingdom and on the *RMS St. Helena*. They contribute about £2 million a year to the economy.[7] As virtually all contracts for offshore employment are for unaccompanied workers, there is considerable dislocation of families.

33. On 16 October 2001, speaking at a meeting of the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly, a representative of the United Kingdom drew attention to the fact that the United Kingdom had set up a pilot fund to help support economic diversification and improve employment prospects in the Overseas Territories and was discussing the terms of the fund with the St. Helena Government (see para. 64 below).

C. Public health

34. According to the Government of Saint Helena, the public health budget for the year 2001/02 was £1.954 million, which represented 18.5 per cent of the St. Helena Government's annual expenditure. There is a 42-bed general hospital in Jamestown, seven outpatient clinics, an elderly care complex, a centre for the mentally infirm and a centre for the mentally and physically handicapped. St. Helena has a very high incidence of diabetes and hypertension, widely perceived to be genetic in origin. The rapid ageing of the population is increasing the pressure on medical resources. Given St. Helena's geographical isolation, the areas of greatest financial concern in the public health area are the high cost of drug purchases and of overseas referrals, which are sometimes inevitable. In March 2002 the Public Health and Social Services Department expressed concern about the severe shortage of trained nursing staff at the Hospital and informed the public that while annual outpatient attendance had increased from 10,000 to 19,000 within the last five years, only 34 of the required 52 trained nurses remained.[14]

D. Education

35. Education is compulsory and free for children between 5 and 15 years of age. In 1999/2000, 830 children were attending eight public schools in the Territory. As at June 2000, a staff of 128 was providing education for more than 900 schoolchildren. Total expenditure by the Education Department in 1999/2000 was estimated at £1,248,690, which is approximately

10.04 per cent of the total government recurrent expenditure.

36. The introduction of British standardized tests in English and mathematics in the first and middle sections of school have shown that the majority of pupils score lower than their British counterparts. Results from the secondary school examination for students 16 years of age and over show that these pupils are also seriously underachieving, with less than 12 per cent each year attaining the minimum five qualifying grades for the General Certificate of Secondary Education or equivalent, compared with 40 per cent in the United Kingdom. These problems have been attributed in part to the high level of staff turnover and staff members' lack of qualifications and experience.

E. Environment

37. St. Helena has an environmental conservation programme aimed at preserving endangered species and diversity of habitats. The plants that are unique to St. Helena form an important part of the Territory's heritage and could potentially increase tourism. The World Conservation Union lists as endangered 40 per cent of St. Helena's plants, while other conservationists insist that the actual proportion is even higher. A survey conducted by the St. Helena Nature Conservation Group in June 2001 ranked litter as the most important environmental problem, followed by endangered plants and animals, and then by sewage disposal at sea. In September 2001 the United Kingdom and the Overseas Territories adopted a set of Environment Charters setting out for the first time the mutual responsibilities of both regarding the environment. In November 2001 the Foreign and Commonwealth Office, in collaboration with the Overseas Territories and the Overseas Territories Conservation Forum, sponsored an environmental-education training pack, "A Breath of Fresh Air", with the aim of assisting the Territories in promoting the importance and value of the environment.[15]

VI. Dependencies of St. Helena

A. Tristan da Cunha

1. General

38. The dependency of Tristan da Cunha[16] is composed of four islands — the main island, called Tristan da Cunha, plus Gough, Inaccessible and Nightingale. Tristan da Cunha, a round volcanic island with an area of 98 square kilometres, is the most remote inhabited island in the world. Its closest neighbours are St. Helena, 2,334 kilometres to the north, and Cape Town, 2,778 kilometres to the east. Its population was evacuated to the United Kingdom when the volcano last erupted, in 1961, but returned in 1963. The only settlement on the island is the capital, Edinburgh of the Seven Seas. According to the Administrator, as at December 2000 the population consisted of 283 people divided into approximately 100 households.[17] A team of South African meteorologists lives on Gough. Inaccessible and Nightingale are uninhabited.

2. Constitutional and political status

39. Executive authority for Tristan da Cunha is exercised by the Governor of St. Helena. A resident Administrator is appointed by the Governor and is responsible to him. The Administrator is advised by an Island Council, led by the Chief Islander and comprising eight elected members (including at least one woman) and three appointed members. Elections are held every three years. All registered voters over 18 years of age are eligible to vote.

40. Tristan da Cunha has its own legislation, but St. Helena law applies to the extent that it is not inconsistent with local law, insofar as it is suitable for local circumstances and subject to such modifications as local circumstances make necessary. There is one full-time police officer and three special constables. The Administrator is the Magistrate.

41. Residents of Tristan da Cunha will receive the options of British citizenship and residency after passage of the British Overseas Territories Bill.

3. Environment

42. The islands have very distinctive endemic flora and fauna and are important breeding grounds for many seabirds, many of them rare, such as the Tristan

Albatross. The declaration of Gough Island as a World Heritage Site and of Inaccessible as a nature reserve means that 40 per cent of the dependency's land is under protection. Marine life is also protected.

4. Economic and social conditions

43. According to the Administrator, Tristan da Cunha is almost self-supporting economically, with overseas funding required only for large capital projects. The Government is the chief employer on the island, with a workforce of 143. The lobster factory provides permanent employment for 23 and casual employment for a further 110 people on fishing days, when 20 small island boats catch lobster for processing. The lobster fishery is operated under an exclusive concession granted by Tristan da Cunha to a South African company. Two company ships fish around Inaccessible, Nightingale and Gough, while the islanders fish around Tristan da Cunha. In addition to royalties and employment, the fishing company also provides a passenger and cargo service to Cape Town. Other sources of income — such as the sale of postage stamps and a limited tourist industry based on three or four ship visits per year — cannot realistically be increased significantly. Other potential sources, such as the sale of mineral water, would require considerable capital investment.

44. Revenue provided by the royalties from lobster fisheries and the interest from a reserve fund finances government activities such as the provision of free health care and education. Tristan da Cunha's only hospital is staffed by a qualified expatriate medical officer and four nurses. When required, medical treatment is provided overseas. Education is free and compulsory for all children between 5 and 15 years of age. Working men and women are encouraged to continue their education under a "day-release" programme.

45. There is no air service to Tristan da Cunha. Transport to and from the island is provided by the yearly call of the *RMS St. Helena*, an occasional passenger ship, two fishing concession vessels and the South African research vessel *SA Agulhas*. Owing to rough seas, the harbour is accessible only 60 to 70 days a year. Improvements to the harbour are considered vital to Tristan da Cunha's future. Work is under way to design and construct a safer harbour, which would increase visits by passing ships.

5. Development assistance

46. The United Kingdom's assistance to Tristan da Cunha is modest and consists of support for the provision of medical care on the island and continuing support for the Fisheries Management Project. The European Union also provides financial assistance for the purchase of machinery to be used in the construction of the harbour.[18] On 23 May 2001 a storm struck the island, with winds of 120 miles per hour. While no islanders were hurt, there was extensive damage to homes, the hospital and a community centre. The United Kingdom announced that it would provide a £75,000 aid package.[19]

B. Ascension

1. General

47. Ascension was discovered by the Portuguese in 1501 and "found" again on Ascension Day in 1503 by Alphonse d'Albuquerque, who named the island. In 1815, when Napoleon was a prisoner on St. Helena, a small British naval garrison was stationed on Ascension. The island remained under Admiralty supervision until 1922, when it was made a dependency of St. Helena. From then until 1964 the island was managed by the Eastern Telegraph Company (renamed Cable and Wireless in 1934). In 1964, in view of the plans to establish British Broadcasting Corporation (BBC) and Composite Signal Organization stations, an Administrator was appointed. During the Second World War the United States Government built the Wideawake airstrip on the island. In 1957 a United States Air Force presence was re-established and the airstrip and ancillary facilities were enlarged. It is now the south-east tracking station for the United States Air Force Eastern Test Proving Ground. In 1982 it became the intermediate stop for Royal Air Force flights to and from the Falkland Islands (Malvinas). Ascension covers an area of 90 square kilometres and is of volcanic origin. There is no indigenous population. The total population is about 1,100, comprising the employees of companies established on the island and their family members.

2. Constitutional and political status

48. Executive authority for the Territory is exercised by the Governor of St. Helena. A resident Administrator is responsible to the Governor.

Ascension Island's own legislation is of a limited range. However, English law applies to the extent that it is not inconsistent with local law, insofar as it is suitable for local circumstances and subject to such modifications as local circumstances make necessary.

49. Ascension has for many years been primarily an important communications centre. All public services were provided by Ascension Island Services (AIS), a joint venture partnership between BBC World Service and Cable and Wireless directed by a London Board of "Users". Owing to changed geopolitical priorities and rising salaries, in 1999 the London Board decided to disband the joint venture by 31 March 2001.

50. The new Ascension Island Government, consisting of the Governor of St. Helena and its dependencies and the Administrator of Ascension, was established on 1 April 2001. Throughout the period under review there has been considerable discussion among the inhabitants of Ascension about the future shape of their Government. A constitutional adviser from the Foreign and Commonwealth Office, Michael Bradley, visited Ascension in October 2001. According to a summary of the Bradley report published by the Administrator in the local weekly,[20] a majority of Ascension inhabitants do not want a complete separation from St. Helena but are concerned that any new legislative forum should not be a subsidiary administration of St. Helena. The report found considerable support for the creation of a representative government, but views diverged on its powers and responsibilities. Proposed options included the creation of a legislative council similar to St. Helena's or of an advisory council that could then evolve into a full legislative body like those in other Overseas Territories. Bradley reported that an Order in Council to meet the needs entailed in any of the options would take at least a year. It was recommended that, as an interim solution, the Governor use his existing powers to provide for an Island Council similar to that of Tristan da Cunha.

51. Unlike other Overseas Territories, Ascension has no indigenous population. Therefore, the Bradley report recommended that, if a democratic structure were to be created, rights of abode independent of employment should be created. There was also concern that the majority of contracted workers were employed on an unaccompanied basis, a situation that may conflict with the European Union Convention on Human Rights. Bradley recommended that provision for representative government, the right of abode and human rights proceed as soon as possible. The enactment of ordinances could lead to a full constitutional document in 5 to 10 years. In the meantime, public discussion of the matter continues in Ascension.

3. Economic and social conditions

52. In the new Government's first year its revenue derived mainly from the employment levy, the Users, receipts from the Ministry of Defence and receipts for services and goods provided by the Government, such as income from postage stamps and immigration fees. With respect to long-term funding, the aim is to introduce a fiscal system and a customs regime in the year 2002 without decreasing the purchasing power of the people living on Ascension and without increased costs for the Users.

53. A major component of the reform process on Ascension is the development of the private sector. In that regard, in June 2001 Ascension Island Commercial Services, Ltd., was established to manage and prepare for sale commercial business units formerly operated by Ascension Island Services. In February 2002 the new company announced the sale of the guest house, car rental business, laundry, petrol station, slaughterhouse and two shops to private bidders from Ascension and St. Helena. At the time of disposal of the businesses, current employees of the company were to be transferred automatically under applicable employment legislation.

54. Ascension is of considerable environmental interest, as it is a breeding site for the green turtle and numerous species of seabirds, as well as home to abundant marine life. A sum of £1 million is to be spent by the Foreign and Commonwealth Office and the Royal Society for the Protection of Birds to restore the seabird and turtle colonies on Ascension. The project covers the appointment of a Conservation Officer as well as eradication measures against rats and feral cats to protect bird life.[21]

VII. Future status of the Territory

A. Position of the administering Power

55. On 8 October 2001 the representative of the United Kingdom made a statement before the Special

Political and Decolonization Committee (Fourth Committee) (see A/C.4/56/SR.3) in which she welcomed the opportunity to present her country's position as an administering Power and reported on further progress made towards the modernization and development of the relationship between the United Kingdom and its overseas Territories.

56. The United Kingdom representative said that the third meeting of the Overseas Territories Consultative Committee, held in London in September 2001, had been hosted by Baroness Amos, who was appointed Foreign Office Minister for the Overseas Territories in June 2001. The Consultative Committee provided a forum for structured political dialogue and exchange of views between the elected representatives of the Overseas Territories and Her Majesty's Government. The meeting was an opportunity to continue dialogue on the management of public affairs and future development of the Overseas Territories, and it enabled Ministers and Overseas Territories' Governments to consult on matters such as the process of constitutional review and human rights issues arising from the United Kingdom's international commitments.

57. The representative of the United Kingdom said the United Kingdom's partnership with its Overseas Territories continued to evolve and progress. On 21 June 2001 the Government had introduced to Parliament the British Overseas Territories Bill, which would grant British citizenship, with right of abode in the United Kingdom, to citizens of 13 of the 14 British Dependent Territories, in fulfilment of a commitment made in the 1999 White Paper on the relationship between the United Kingdom and the Overseas Territories. The bill would also formally change the nomenclature from "dependent" to "overseas" territory so as to reflect more accurately the nature of the relationship. The United Kingdom and most Overseas Territories had adopted an Environment Charter on 26 September, which set out 10 guiding principles expressing the key environmental commitments that the international community had adopted. The guiding principles were followed by specific commitments on the part of the United Kingdom and Overseas Territories' Governments, indicating how they would work in partnership for the benefit of the environment. It was a good example, the representative of the United Kingdom said, of how progress could be made by working together in an area of mutual interest, which was critical to the future prosperity, well-being and even survival of many of the Overseas Territories and their communities.

58. The representative of the United Kingdom pointed out that, as the record showed, for the United Kingdom the wishes of the peoples concerned, exercised in accordance with the principles set out in the Charter of the United Nations and in other international treaties, were of paramount importance. The relationship of the United Kingdom with the Territories continued to be based on the following fundamental principles: self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible, and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. The representative of the United Kingdom said she was sure the Committee recognized the basic commonality between the approach of the British Government and that of the Committee.

59. Nevertheless, she stated, it was a pity that while there was so much in common in their approaches, this was not always properly reflected in all relevant resolutions, in particular those of the Special Committee. Her delegation welcomed the fact that the annual omnibus resolution stated that in the decolonization process there was "no alternative to the principle of self-determination", but regretted that the Special Committee continued to apply that principle selectively, a principle enshrined in the Charter of the United Nations and the international Covenant on Civil and Political Rights.

60. The United Kingdom, she stated, would continue to work to improve its cooperation with the Special Committee. A representative of the United Kingdom had attended the Regional Seminar held in Havana in 2001.

61. The United Kingdom welcomed the efforts begun by the Special Committee, under the constructive leadership of Peter Donigi, to pursue informal dialogue with the administering Powers with a view to the possible removal of Territories from the Committee's list. Careful preparation would be necessary before substantive progress could be expected, but the United Kingdom remained ready to cooperate with the Committee in those efforts.

B. Position of the Territory

62. In September 1999 the Government of St. Helena published "The St. Helena Strategic Review 2000-2010", in which it outlined its medium-term and long-term vision for St. Helena. The Government pointed out that St. Helena remained heavily dependent on aid from the United Kingdom to retain its current standard of living. Noting the objectives of the United Kingdom, the strategic review was based on assisting the United Kingdom in achieving those objectives with regard to St. Helena. However, the review concluded that "without radically improved access" — meaning air access — "there is no future for St. Helena" (see para. 27 above for latest developments).

63. The Citizenship Commission of St. Helena, established in 1992, continues to defend the restoration of full rights of citizenship for St. Helenians, as well as their right to consider changes in the Territory's constitutional relationship with the United Kingdom. In July 2000 Professor Ed Morgan of the University of Toronto, speaking on behalf of the Citizenship Commission, examined the legal merits of St. Helena's case before the Special Committee. In May 2001 a similar submission was made to the Human Rights Committee. In February 2002, after it had been announced that the British Overseas Territories Bill was close to completion, the Citizenship Commission stated, inter alia: "This year will make exactly a decade since the formation of the Citizenship Commission. It will be a turning point for St. Helena; it will also come as a sense of relief for the Commission. Keeping the matter alive at times with very little light appearing at the end of the tunnel has been difficult."[22]

VIII. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

64. The Special Committee considered the question of St. Helena in October 2001 in the context of its consideration of the draft resolution on the questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, St. Helena, the Turks and Caicos Islands and the United States Virgin Islands, submitted under agenda item 18 (see *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 23* (A/56/23), chap. XIII, sect. F). At the Special Committee's 7th meeting, on 16 October 2001, Ms. Howe-Jones of the United Kingdom explained that her delegation shared the Committee's concern about the problem of unemployment and that the United Kingdom and the Government of the Territory had taken joint action in that regard. The United Kingdom had set up a pilot fund to support economic diversification and improve employment prospects in its Overseas Territories and was currently discussing the terms of the fund with the St. Helena Government.

B. Special Political and Decolonization Committee (Fourth Committee)

65. At its 7th meeting, on 16 October 2001, the Committee adopted without a vote the draft resolution on the questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, St. Helena, the Turks and Caicos Islands and the United States Virgin Islands (ibid.).

C. General Assembly

66. On 10 December 2001 the General Assembly adopted without a vote resolution 56/72, on the questions of American Samoa, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, St. Helena, the Turks and Caicos Islands and the United States Virgin Islands. Referring to St. Helena specifically in section IX of the resolution, the Assembly noted that the administering Power had taken note of various statements made by the Legislative Council of St. Helena about the Constitution and was prepared to discuss them further with the people of St. Helena. The Assembly requested the administering Power to keep the Secretary-General informed of the wishes and aspirations of the people regarding their future political status. The Assembly also requested the administering Power and relevant regional and international organizations to continue to support the efforts of the territorial Government to address the socio-economic development challenges of

the Territory, including high unemployment and the problems of limited transport and communications.

Notes

[1] Information contained in the present working paper has been derived from information transmitted to the Secretary-General in June 2000 and April 2001 by the Government of the United Kingdom of Great Britain and Northern Ireland under article 73*e* of the Charter of the United Nations, and from published sources.

[2] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 and set out in A/AC.109/1999/1, annex.

[3] House of Commons Explanatory Notes, 30 October 2001.

[4] Press release, "Baroness Amos and Citizenship", *St. Helena Herald*, 22 March 2002.

[5] "Governor's Christmas Message 2001", *St. Helena Herald*, 21 December 2001.

[6] *St. Helena Herald*, 17 August 2001.

[7] www.sainthelena.gov.sh.

[8] Letter from Under-Secretary of State, reported in the *St. Helena News*, 2 March 2001.

[9] *St. Helena Herald*, 13 July 2001.

[10] DP/CCF/STH/2.

[11] South-East Atlantic Fisheries Organization press release, in *The Islander*, 19 July 2001.

[12] *St. Helena Herald*, 11 January 2002.

[13] Press release, reported in *St. Helena Herald*, 22 March 2002.

[14] Press release, reported in *St. Helena Herald*, 15 March 2002.

[15] Foreign and Commonwealth Office news, 26 September and 7 November 2001.

[16] Information derived from "Tristan da Cunha" (1998), by Brian Baldwin, Administrator of Tristan da Cunha.

[17] Interview with the Administrator of Tristan da Cunha, Falkland Islands News Network (SARTMA), 6 December 2000 (see www.sartma.com).

[18] Interview with European Union official Christian Simmons, SARTMA, 16 January 2001.

[19] *Agence France-Presse*, 6 June 2001.

[20] *The Islander*, 7 March 2002.

[21] *The Islander*, 5 July 2001.

[22] *The Citizen*, Number 74, February 2002, printed in *The Islander*, 28 February 2002.

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Tokelau

Working paper prepared by the Secretariat

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I. General

1. Tokelau,[1] a Non-Self-Governing Territory administered by New Zealand, consists of three small atolls in the South Pacific (Fakaofo, Nukunonu and Atafu), with a total area of approximately 12.2 square kilometres. Fakaofo is the southernmost atoll; Nukunonu is nearly 50 kilometres away and Atafu nearly 100 kilometres from Nukunonu. Each atoll comprises strips of land no more than 200 metres wide and never more than 5 metres above sea level. Samoa, 480 kilometres to the south, is the nearest sizeable neighbour.

2. Tokelauans are Polynesians with linguistic, family and cultural links with Samoa. The last five-yearly census, conducted on 11 October 2001, recorded a population of 1,518, a slight increase over the 1996 figure of 1,507 people. This figure includes all those present on census night plus those who usually reside in Tokelau but were overseas temporarily in government employment or for educational and medical reasons — a frequent occurrence in this Territory. By atoll, the population was recorded as follows: Atafu, 608; Fakaofo, 501; Nukunonu, 409. The constraints of atoll life and limited opportunities have led some 6,000 Tokelauans to settle abroad, mainly in New Zealand and Samoa.

3. The two main New Zealand appointees who engage with Tokelau have been the Administrator, appointed by the Minister of Foreign Affairs and Trade, and the Tokelau Public Service Commissioner, a delegate of the State Services Commissioner. In February 2002, at the request of the Tokelau authorities, Lindsay Watt, the Administrator, was reappointed for a further year. Aleki Silao, a New Zealand-based Tokelauan, remained in his post as Public Service Commissioner until 30 June 2001, when responsibility for public services was transferred to the Territory (see para. 15).

II. Constitutional and political developments

A. Constitutional developments

4. As reported in previous working papers on the question of Tokelau (for the most recent, see A/AC.109/2001/5), the process of constitutional development is continuing. In August 1998, the General Fono (the national representative body) endorsed a comprehensive report entitled "Modern House of Tokelau", which addressed the core issue for Tokelau in creating a constitutional framework: how to construct a self-governing nation based on the atoll or "village" structure. There is, as yet, no written constitution. Initial studies were done in the mid-1990s and a first glimpse of a constitution was published in 1996-1997 in Tokelauan and English. The constitution will be developed further as new governance structures for village and nation are decided on. It is expected to draw upon unwritten customary practice, the written rules of the General Fono and elements of New Zealand law. At the end of 2001, it was agreed that the General Fono's Special Constitutional Committee would be convened as soon as possible after the January 2002 elections.

5. Regarding the legislative structure, in accordance with recommendations made in the 1998 report, a new electoral system was instituted for the General Fono. In the past, the 27-seat General Fono was made up of members chosen by each village's Taupulega (Council of Elders or Village Council) to serve three-year terms; only the Faipule (the representative of each village) and the Pulenuku (the mayor of each village) were elected. In January 1999, elections for a reformed General Fono, made up of six members from each village (18 altogether), were held on the basis of universal suffrage. Each village first elected four officials: Faipule, Pulenuku, Deputy Faipule and Deputy Pulenuku. Next, it elected two delegates nominated by designated groups in the village: women and the aumaga (the workforce of able-bodied men). The new elected General Fono reflected a generational change in membership. Delegates were younger and had received more formal education than before. In addition, whereas in the past membership in the General Fono was rotational in nature, several of the new delegates had served previously.

6. In March 2000, senior elected leaders stated that they were now ready to embark fully on the Modern House project and in June 2000, the General Fono officially established the project. Overseeing it was a Joint Committee or management structure comprising Tokelau's six senior elected leaders, the Public Service Commissioner and the Administrator. In addition, a Transition Team was set up, including the heads of departments from Tokelau and a number of New

Zealand-based specialists, to provide project oversight, management, coordination, relations with sponsors (New Zealand Official Development Assistance and the United Nations Development Programme (UNDP)), monitoring, reporting and evaluation. In September 2000, a brief discussion document was presented to the three Village Councils and the people of Tokelau. The key point which was endorsed by the Tokelauans was the following: "The three villages are the traditional foundation of the nation. For the good government of the people their Village Council (Taupulega) should be the basis of future government." There was no question that the three villages wished to be one nation and that certain functions, such as transport, would be best performed by a national administration; nonetheless, the basis for leadership and decision-making was the village council.

7. In November 2000, the Joint Committee agreed on a programme that involved:

(a) Good governance, namely governance framework, constitutional development, management and operational structures and employer responsibility;

(b) Capacity development, namely the review of national and village administrations, the development of a management support training workshop, the identification of national, village and individual training needs and the development of appropriate training programmes;

(c) "Friends of Tokelau", namely the establishment of an organization to link outside individuals and organizations into Tokelau's development;

(d) National and village sustainable development plans.

8. In March 2001, the Joint Committee met to review progress on governance issues. Among the decisions taken were to note the Taupulega's agreement to a village governance structure for Nukunonu and to the appointment of a village General Manager by July 2001; to approve a capacity-building programme; to approve the appointment of a National Project Manager for 12 months and the appointment of part-time village coordinators; and to develop a Modern House web site. With regard to new management structures, it was agreed that the Taupulega was the basis of government and decision-making, that new structures should promote the concept of public service, incorporating both national and village services, and that Tokelau's limited resources and skills should be maximized by the coordination, integration and sharing of services whenever possible.

9. According to the administering Power, during the period under review, Tokelau and New Zealand have continued to see self-determination as a dynamic and evolving process — a largely self-generated approach to decolonization where the administering Power and third parties recognize what the people of Tokelau construct. Thus, the Modern House initiative or governance project, established officially in June 2000, has continued to move gradually from the planning to the implementation stage. In 2001, the focus continued to be on efforts to make traditional village leadership the basis for future government and to concentrate on the establishment of the Tokelau Employment Commission (see para. 15). There was substantial Tokelau and New Zealand interaction in both these areas. In May 2001, Tokelau officially took over the administration of local public services. The General Fono met in July 2001 and the Tokelau Employment Commission began to function as of that same month. In October 2001, the Council of Faipule and the Administrator held a strategy session in Samoa and the Ulu travelled to Wellington, and in late November 2001, the Administrator attended the General Fono.

10. At the General Fono meeting of November 2001, it was decided that representation within the Fono would be changed based on the results of the 2001 census. This meant that for the first time in General Fono history, the three atolls would not be represented by the same number of delegates, but would have legislative seats proportional to the size of their population. Thus, replacing the former structure of 18 members (6 per atoll), the new General Fono has 21 members, giving Atafu 8 delegates, Fakaofo, 7 and Nukunonu 6. The triennial elections for Faipule and other General Fono delegates were held from 16 to 22 January 2002. Each of the three incumbent Faipule was re-elected. Among the elected delegates, 11 of them (more than half the composition of the General Fono) have not held office before. The position of Ulu-o-Tokelau (titular head of the Territory) rotates annually among the three Faipule. In February 2002, Nukunonu's Faipule, Pio Tuia, was installed as Ulu for 2002.

11. The Council of Faipule and the Administrator held a further strategy session in Samoa, from 11 to 16

March 2002, to map out the direction for Tokelau in the next three years. The Council adopted a vision statement entitled "The Quality of Life for People living in Tokelau" and identified three areas of national priority which have the potential for economic development (see para. 20). The Council also worked on defining the obligations and commitments of the future partnership with New Zealand and discussed constitutional development. In addition, a legislative programme was developed focusing on such key areas as criminal law, business law and shipping and safety standards for dangerous goods (electricity, gas, fuel and pesticides).[2]

12. Another significant development during 2001 were the meetings held in New York in June between the Ulu, his delegation and the Administrator, and the Working Group for the Pacific Region of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. The Working Group was established under the chairmanship of Ambassador Peter Donigi of Papua New Guinea. The purpose of the June meetings was to develop a constructive programme of work to define key activities and to assist each partner in assessing Tokelau's progress towards self-determination. It was agreed that the text of the programme of work would be revised and expanded as the situation evolved and as further information was transmitted to the United Nations.

13. To support the development of a governance structure to fit Tokelau's cultural context, New Zealand allocated NZ$ 900,000 for the Modern House of Tokelau project in 2001-2002. The focus is on developing a governance framework attuned to modern needs yet founded on the traditional authority of the Taupulega (village council); capacity development through training programmes to support the new structures; production of a sustainable development plan; and establishment of a "Friends of Tokelau" network to channel support from New Zealand.[3]

B. Public service

14. The Modern House project is also Tokelau's way of addressing a historical problem stemming from its experience of an externally modelled Tokelau Public Service, under the management of the New Zealand State Services Commissioner, in accordance with the Tokelau Amendment Act 1967, part I. While the Tokelau Public Service could be seen as the administering Power's best endeavour in the 1970s to provide services in education, health, energy, transport and communications, by the 1990s both the New Zealand and Tokelauan authorities agreed that the Tokelau Public Service produced a management structure that emphasized national arrangements over village ones, weakening, in the process, the institution of the village. In July 1998, at the request of the territorial Government, the State Services Commissioner appointed a New Zealand-based Tokelauan, Aleki Silao, as Commissioner of the Tokelau Public Service in order to ensure the effective and efficient running of the existing Service and to assist Tokelau in developing and implementing a new independent public service that would fit within the Modern House project. The Government of New Zealand passed legislation to enable responsibility for the Tokelau Public Service to be passed from the State Services Commission in New Zealand to Tokelau.

15. On 10 February 2001, the General Fono adopted the Tokelau Public Service Rules 2001, which established a three-member Tokelau Employment Commission (one member designated by each village) as the successor body, effective 1 July 2001. The new Commission is the employer of former employees of the Tokelau Public Service and those who are deemed to be national-level employees after 30 June 2001. In ceremonies held in Wellington in May 2001, Tokelau officially took over the administration of local public services. Attending were the New Zealand State Services Commissioner and members of the Council of Faipule and the Pulenuku (the Cabinet and local mayors) from Tokelau. The new Tokelau Employment Commission began to function as of 1 July 2001; the three Commissioners were appointed, received training in Samoa in October and in New Zealand in November and assumed responsibilities on 30 November 2001. The former State Services Commissioner was retained as an adviser. In November 2001, the General Fono approved a Tokelau Public Service manual prepared with the cooperation of the Commissioners. The manual sets down the principles governing service, terms and conditions of work, as well as guidance for public servants. The costs of the Tokelau Employment Commission are to be borne by the governance project until June 2002 when they will be covered by Tokelau's budget.

III. Economic conditions

A. Economic developments

16. Traditional and communal values and practices play a key role in contributing to a state of general well-being and equity in the Territory, as evidenced by the redistribute principles of traditional wealth (the inati system) and the importance attached to upholding the concept of the family and/or the extended family. The tradition of inati requires the deposition at a central location of food and produce, which are then apportioned by the distributors on the basis of "share groups". The principle provides for a secure distribution system that caters to the needs of every member of the community, including the elderly, widows, single parents and children. Major constraints on economic growth include natural disadvantages, such as the small size of Tokelau, isolation, the geographical spread of the atolls, limited and poor natural resources and proneness to natural disasters (such as cyclones). Tokelau's economic stability has so far been made possible by the high levels of assistance provided by the administering Power.

17. In May 2001, representatives of Tokelau and New Zealand met in Wellington for discussions on the NZ$ 7.5 million allocation of the New Zealand Official Development Assistance bilateral programme in 2001-2002. Included in that amount was NZ$ 1 million for transitional support, primarily to maintain the momentum for Modern House of Tokelau initiatives. NZ$ 4.5 million would go towards ongoing support for self-government, with the remaining NZ$ 2 million allocated among the health and education sectors, power supply, maintenance, infrastructure, financial management, gender and development and meteorological services. For its part, Tokelau estimated that it would have revenues of NZ$ 1.7 million from fisheries licensing, duty, taxes, philatelic sales, freight charges and interest earned.[4]

18. In a paper prepared jointly by the Ulu and the Administrator in June 2001, they reflected on the traditional way of life of Tokelau and on the current reality. This new reality was seen as a product of many changing circumstances, namely, the growing contact with and material dependence on the outside world; the fact that people had the option of leaving the atolls to live in New Zealand; and the existence of a dual economy where subsistence and cash sectors intersected and where traditional activities decreased in importance because of monetization and public sector employment. The challenge was seen as being able to come together in order to deal with the functions that were beyond the capacity of the village and to pursue joint economic activities, such as fisheries.

19. In July 2001, a business training programme began as part of the Modern House of Tokelau project. It was a proposal by the Samoa Business Enterprise Centre and entailed a two-phase project which was to culminate in September with Tokelau business people selling goods at Samoa's Teuila Festival. The training included an introduction to gender awareness, basic business management and customer service. While in Apia, trainees also were to attend a small business conference run by the Enterprise Centre and visit successful Samoan business enterprises.[5]

20. Tokelau also aims to complete a Sustainable Strategic Development Plan for 2002-2004 and beyond. This would be the governance project's economic dimension and would aim to expand economic and social opportunities, thereby increasing the village and national revenue base and, thus, Tokelau's self-reliance. At the strategic meeting, held in Samoa in March 2002, the Council of Faipule identified three areas of national priority which have potential for economic development, namely, commercial fisheries, successful businesses and critical infrastructure. The Council will review progress in these three areas at the end of each year.

21. Regarding commercial fisheries and bearing in mind the potential of its own Exclusive Economic Zone, Tokelau is planning to apply for membership in the Forum Fisheries Agency. Meanwhile, it has asked the Agency for assistance in conducting an audit of the Territory's maritime resources. In addition, in order for Tokelau to forge productive economic associations with its neighbours, it is formalizing its maritime boundaries. The boundary between Tokelau and American Samoa was formalized by means of a treaty between New Zealand and the United States in 1980. More recently, arrangements were made in 2001 to complete a maritime boundary agreement with the French territory of Wallis and Futuna. Still to be discussed are maritime boundaries with Samoa and with Kiribati (Southern Line Islands). Furthermore, given that the flow of persons and goods to and from Tokelau is only possible through the mediation of a foreign State (mainly, Samoa), consideration is also

being given to signing a memorandum of understanding with Samoa and, possibly, with American Samoa, as was done in 1996 with Tuvalu.

22. Plans are also moving ahead for the establishment of a Tokelau Trust Fund. Tokelau has set aside NZ$ 680,000 from its fishing licence review as a contribution and New Zealand has matched that sum from New Zealand Official Development Assistance funding. Future contributions by New Zealand will be discussed once the remaining steps have been taken for the formal establishment of the Trust Fund.

23. While the bulk of development assistance to Tokelau has been bilateral support from New Zealand, UNDP also contributes from its office in Apia to the strengthening of the Territory's social and economic capabilities as it moves towards greater self-government and self-reliance. Within the Tokelau/UNDP country cooperation framework for 1998-2002 and the UNDP programme of assistance,[6] the governance project provides total UNDP funding of US$ 214,000 in direct support to the Modern House project. It focuses on macro-level financial management and strategic economic planning and stresses the management of the public power supply considered vital for the functioning of both Government and the community. The job creation and sustainable livelihoods project, implemented by the International Labour Organization with funding of US$ 148,000, aims to develop the private sector in the three atolls by stimulating small, home-based enterprises, diversification in agriculture and development of fisheries. Both projects are linked to job creation and sustainable livelihoods programmes within the Enterprise Development Agency newly created by the New Zealand Official Development Assistance. Other ongoing projects are the household income and expenditure survey, with US$ 150,000 allocated to Tokelau, which aims to provide the Government with data on the needs of vulnerable sectors (youth, women, children, the elderly and the disabled) and a project to improve the monitoring and oversight capacity of the UNDP country office in Samoa.

B. Transport and communications

24. Transportation to and from Tokelau has so far been provided by the *MV Tokelau*, a mail ship which provides service every two weeks between Tokelau and Apia as well as inter-atoll services. In September 2001, the *MV Tokelau* ran aground on a reef at Nukunonu atoll. No one was hurt during the accident.[7] After initial attempts to pull the vessel off the reef failed, it was successfully refloated by a specialized salvage crew and towed to Fiji in mid-October 2001 for official inspections and repairs.[8] Meanwhile, other vessels were chartered at greater cost and at the expense of flexibility in the service. The *MV Tokelau* became operational again in January 2002.

25. The first use of the General Fono's legislative power was the establishment of the Telecommunications Tokelau Corporation under the Tokelau Telecommunications Rules of 1996. The NZ$ 4 million international telecommunication service was inaugurated in April 1997 and is contributing to the Territory's progress towards self-determination by facilitating Tokelau's contact with the outside world. Previously, Tokelau had to rely on short wave links to Samoa. Of the total cost, New Zealand contributed NZ$ 1.5 million and Tokelau NZ$ 1.6 million. UNDP and the International Telecommunication Union provided the balance. In February 2002, FM radio stations were inaugurated on each of the three atolls with funding from the New Zealand Official Development Assistance. Currently, they operate independently, but there are plans to link them at least once a week for a national programme. The new radio stations are seen as an excellent means of maintaining the Territory's cultural heritage as well as a way of facilitating communication on community matters. They carry information about meetings of the Mayor and Council of Elders, boat schedules, interviews and music. Tokelau also has a web site, www.dot.tk, which became operational on 15 January 2002 and offers both free and paid dot.tk domain names. The web site is the result of a commercial licensing agreement between the Telecommunications Tokelau Corporation and a private company which set up Taloha Inc. It is seen as having the potential to provide revenue to the Territory without any capital outlay by the Telecommunications Tokelau Corporation. Meanwhile, efforts continue to enhance e-mail facilities and teleconferencing connections using Modern House funds.[9]

C. Power supply

26. The 2001-2002 forward aid programme of the New Zealand Official Development Assistance

allocated NZ$ 400,000 for the completion of the power supply project for Tokelau begun under the previous budget, which would result in the installation of a diesel generation system on all three atolls. Tokelau was continuing to work on determining a management structure for the new power system. There was also a proposal for a solar power component to the new system, for which it was hoped funding would be shared between the New Zealand Official Development Assistance, France and UNDP. The Renewable Energy Programme of the Secretariat of the Pacific Community, funded by Australia and France, was also seen as a possible source of funding.[4]

IV. Social conditions

A. Education

27. Under Tokelau's compulsory education system, primary and secondary education are available to everyone. As a member of the University of the South Pacific, Tokelau also has access to the USPNet educational telecommunications system through a satellite established in Atafu. However, the low standard of the education system remains a problem, with many families migrating to New Zealand or Samoa in order for their children to receive higher-quality education. Under the forward aid programme 2001-2002 of New Zealand Official Development Assistance, NZ$ 208,000 was allocated for scholarships, NZ$ 200,000 for new education initiatives and NZ$ 30,000 for three Voluntary Service Abroad teachers' allowances. Following a request from Tokelau, the New Zealand authorities are considering the possibility of offering scholarships for vocational training, as an alternative to tertiary scholarships. Among the new education initiatives discussed was the possibility of New Zealand providing more structured support for the Territory's education system through a mentoring arrangement to foster links between both systems and assist in the channelling of project funds.

B. Health

28. Average life expectancy is 69 years.[10] There are three hospitals, one on each atoll. However, the shortage of qualified medical practitioners, surgeons and general healthcare workers remains a serious problem. The necessity of transferring the more serious cases to Samoa or New Zealand for treatment represents a large expense in the national budget. The World Health Organization (WHO), of which Tokelau is an associate member, reports that changes in lifestyle and an increase in non-communicable diseases in Tokelau have resulted in the need for health education programmes focused mainly on the promotion of non-smoking, increasing physical activity and controlling the use of alcohol among young people.[11] According to WHO, the first Tokelauan WHO fellow from the Bachelor of Medicine-Bachelor of Surgery programme at the Fiji School of Medicine graduated in the biennium 1998-1999. The United Nations Volunteers programme has covered the need for a surgeon and maternal/child health practitioner and a preventive oral health programme is being developed. WHO also reports the installation of a diagnostic service facility in Nukunonu, which includes a laboratory and an X-ray unit. As at November 2000, Tokelau had no recorded cases of HIV/AIDS.[12]

29. For 2001-2002, NZ$ 320,000 was allocated to the health sector to cover set costs, locum doctors, training and equipment. It was agreed during the annual programme discussions that funding for proposed modifications to the atoll hospitals would be considered within the maintenance project for public buildings.

C. Status of women

30. Women are well integrated in Tokelauan society. They participate fully in the village decision-making process, through Fatupaepae (women's committees), the village Councils of Elders and their membership in the General Fono. The new electoral system for the General Fono has increased gender equity. Women elected to the General Fono no longer function as the representative of the women's committee, but are responsible for representing all the people of the village. At bilateral New Zealand Development Assistance–Tokelau discussions held in May 2001, New Zealand regretted its inability to fund proposals within the gender and development sector as they were mostly for unsustainable business activities. It was hoped that the planned assistance with business planning and training from the Samoan Women in Business Foundation would enable more workable business ideas to be developed in the future. New Zealand advised that proposals did not always have to

be business-related; they could include community development activities or work with women's involvement in the Modern House of Tokelau.[4] The forward aid programme for 2001-2002 allocated NZ$ 30,000 to gender and development projects.

V. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

31. The Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples considered the question of Tokelau at its 7th meeting, on 28 June 2001 (see A/AC.109/2001/SR.7). The representative of Papua New Guinea made a statement in the course of which he introduced draft resolution A/AC.109/2001/L.12 on the question of Tokelau. Statements were then made by the Ulu-o-Tokelau, the Administrator of Tokelau and the representative of the Syrian Arab Republic. Finally, the Committee adopted the draft resolution without a vote (A/AC.109/2001/24).[13]

B. Special Political and Decolonization Committee (Fourth Committee)

32. At its 3rd meeting, on 8 October 2001, the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard a statement by the Permanent Representative of New Zealand to the United Nations (see A/C.4/56/SR.3). At its 4th meeting, on 9 October 2001, the Committee heard a statement by the Permanent Representative of Papua New Guinea to the United Nations (see A/C.4/56/SR.4). At its 7th meeting, on 16 October, the Committee adopted draft resolution V, entitled "Question of Tokelau", contained in chapter XIII, section E, of document A/56/23, without a vote.[14]

C. Action by the General Assembly

33. At the 82nd meeting of the General Assembly, on 10 December 2001, the Acting Chairman of the Special Committee reviewed the Special Committee's work during 2001 and introduced the report of the Special Committee contained in document A/56/23 (see A/56/PV.82). With regard to Tokelau, he stated that the meetings held in June by the members of the Special Committee with the representatives of New Zealand and Tokelau had been very instructive. They had discussed the best way to work in partnership to ensure that any eventual plan for self-determination would reflect faithfully the wishes of the people regarding their future political status and living conditions. The Special Committee looked forward to future meetings on that issue. That experience had also shown how the case-by-case work programmes for decolonization could be a useful tool when there was the cooperation and good will of all parties involved. Encouraged by the meetings on Tokelau, the Special Committee looked forward to greater involvement in its work by all the administering Powers. In resolution 56/74 of 10 December 2001, the General Assembly welcomed the ongoing consultations between the Special Committee and New Zealand, as administering Power for Tokelau, with the participation of the people of Tokelau, with a view to formulating a programme of work on the question of Tokelau. On 10 December 2001, the Assembly adopted its resolution 56/71 on the question of Tokelau without a vote.

D. Request for admission to the United Nations Educational, Scientific and Cultural Organization as an associate member

34. On 15 October 2001, at the 2nd meeting of the Thirty-first General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), Tokelau was admitted as an associate member upon the request of the New Zealand Minister of Foreign Affairs and Trade. The Tokelauan delegation could not be present at the meeting, as it was called home en route to Paris owing to the *MV Tokelau* shipping crisis (see para. 24). In a statement delivered on behalf of Tokelau by the New Zealand delegation, Tokelau stressed that participating to the fullest extent possible in regional and international

institutions such as UNESCO was a development goal and added that Tokelau had benefited from UNESCO activities in the past through its regional programmes in the Pacific and looked forward to further fruitful cooperation.

VI. Future status of the Territory

A. Position of the administering Power

35. Speaking before the Special Committee at its 7th meeting on 28 June 2001 (see A/AC.109/2001/SR.7), the Administrator of Tokelau, Lindsay Watt, said that, thanks to the dialogue with the Special Committee's Working Group that week, members would have available, at least informally, substantially more material on the Territory than was usual. In addition, the delegates would be seeing a documentary called "Our Small World", which presented a vivid picture of everyday life and was applicable beyond the particular village shown. The documentary would allow delegates to appreciate the size and nature of the challenge facing 1,500 people living in the atolls, as they sought to survive as an entity, culturally proud in their uniqueness, and provide well for their modern needs. He hoped they would see something of the human dimension that lay behind Tokelau's journey as it sought to shape a form of self-determination in a context without precedent in post-war decolonization.

36. Progress was being made in the constitutional, political and social spheres under the headings sustainable governance, sustainable partnership and sustainable development. The focus was on arrangements that could endure: on helping Tokelau succeed in its self-government; on finding workable systems that would sustain Tokelau as a living community; on defining the special relationship between Tokelau and New Zealand in ways that would give certainty, and thus confidence, to the partners. Arrangements, in short, which could survive future changes of Government and indeed of generations. By taking the step-by-step approach, one would be helping Tokelauans to see self-determination in a local frame, to see its local utility, to ask questions and so to generate local debate. That was why Tokelau and New Zealand anticipated that self-determination was most likely to be a confirmation of governance systems that Tokelau had worked out internally, taking account of what had been worked out by that time with its partner.

37. As the joint paper which had been presented stated, the practical question was: "what is it that a community of 1,500 people realistically can do — what is it they can control, how many things can they do well and succeed and how is Tokelau's autonomy to be appropriately sustained by the outside?" The Administrator believed the validity of the question would be more evident once members of the Special Committee had viewed the documentary, when it was appreciated that Tokelau was but three villages, without any political centre or tradition of national government; and that the particular village shown was located on an islet of only some 200 metres in circumference, all of which underlined why it would be unrealistic to set up, among those three villages, the normal paraphernalia of statehood.

38. Mr. Watt added that a core principle was that an external support structure should be an extension of Tokelau's self-government and should link productively into the village and national structures as they took shape under the Modern House project. A practical requirement was that there should be some coordinating facility in Wellington which would assist the further development of links between Tokelau and New Zealand, for example in the form of training and secondment opportunities. Every encouragement was being given to take a "whole of government" approach, the emphasis being on the deployment of resources to an identified need, irrespective of where such resources normally resided, in ways that promoted local initiative and ownership.

39. There was also a wider dimension to the arrangements that were coming into place, among them the launching in Wellington in May 2001 of a "Friends of Tokelau" entity to bring together people in the wider New Zealand community who might wish to lend their support at that critical point in Tokelau's development. It had been most encouraging to see how the Modern House project was enabling Tokelau to tap into the skills of its New Zealand-based community of some 5,000 people. Concluding, Mr. Watt said he was confident that the meetings in New York would show that good understandings had been reached and good progress made on the basis of the recognition that Tokelau's path necessarily was a distinctive one.

40. Speaking before the Special Political and Decolonization Committee (Fourth Committee) at its 3rd meeting on 8 October 2001 (see A/C.4/56/SR.3), the Permanent Representative of New Zealand to the

United Nations said the continuing role of the United Nations in the process of decolonization remained important to many delegations. New Zealand continued to have responsibility for Tokelau, which remained on the list of Non-Self-Governing Territories. Tokelau faced an extraordinary challenge because of its situation — it consisted of three atolls, each separated from the other by large stretches of the South Pacific, none of which was more than 200 metres wide nor higher than five metres above sea level. It had a total population of 1,500. There had never been a resident administering Power presence on the Territory.

41. As the Administrator of Tokelau had said before the Special Committee on 28 June 2001, Tokelau and New Zealand saw self-determination as a dynamic and evolving process. Tokelau's need was to devise for itself a form of self-government that fitted its cultural context through a process of local empowerment. What one saw in Tokelau was a largely self-generated approach to decolonization, where the administering Power and third parties recognized what the people of Tokelau constructed. The Ulu-o-Tokelau had told the Special Committee in June that the people of Tokelau did not see self-determination as a sudden vote on the existing three options; they were not looking at the issue with only the free association option in mind but were also looking at the full integration option in order to make an informed choice.

42. A major step towards self-government in Tokelau had been the withdrawal of the New Zealand State Services Commissioner from his role as employer of the Tokelau Public Service as from 30 June. With regard to the development of Tokelau's international personality, he pointed out that Tokelau's admission to UNESCO as an associate member was set for 15 October 2001, the first day of the UNESCO General Conference.

43. The Permanent Representative added that New Zealand had responded to the General Assembly's call in Assembly resolution 55/147 of 8 December 2000 for the administering Powers to cooperate fully with the Special Committee to finalize a constructive programme of work on a case-by-case basis for the Non-Self-Governing Territories. During their visit to New York in June, both the Ulu and the Administrator had met with members of the Special Committee's Working Group for that purpose. Very good progress had been made in elaborating key activities. He was hopeful that a programme of work could be developed before the end of the year in keeping with the wishes of the General Assembly, to serve as a framework which could assist each partner in assessing Tokelau's progress towards self-determination.

44. Finally, he added that the issue in Tokelau was not about eliminating colonialism but about resolving issues of governance for the very smallest of States. New Zealand remained committed to working with the Special Committee and abiding by the freely expressed wishes of the people of Tokelau on their future status. It continued to respect Tokelau's wish to move at its own pace on the process of self-determination.

B. Position of the people of Tokelau

45. At the 7th meeting of the Special Committee on 28 June 2001, the Ulu-o-Tokelau made a statement (see A/AC.109/2001/SR.7). He recalled that in July 1994, Tokelau had told the United Nations visiting mission and the Government of New Zealand that it would actively consider exercising its inalienable right to an act of self-determination. For Tokelau, that had been a very bold and unprecedented move, a radical step given the extremely cautious and conservative approach to the question taken by the elders in previous years. For a long time, their wish had been to retain the status quo, to stay within the safety of the known. Almost seven years since Tokelau had entered uncharted waters and had felt the vulnerability of exposure to new ways of doing things, it could justifiably feel proud of its achievements, which were well documented and soon would slip into the realm of lived tradition, as if they had always been part of the cultural mores of Tokelau.

46. He noted assurances he had received from the Special Committee that Tokelau would not be neglected, but would support endeavours to work through the plan of action to make possible self-determination, and that the Special Committee and its Working Group would not force Tokelau to adopt governance structures that were inconsistent with its values, cultural norms and practices. He also noted the Special Committee's understanding and acknowledgement of the situation and the characteristics of Tokelau and that there was flexibility with moveable boundaries and time frames. The need for continuing moral support from the Special Committee would be very critical to the success of the

process towards achieving the act of self-determination.

47. The Ulu said that a framework of confidence, trust and mutual respect had emerged from the meetings with the Special Committee. An encouraging and nourishing environment was needed for creative and innovative solutions that would suit Tokelau in the present and in the future, and would give it the freedom to develop in its own way. Tokelau was not approaching the self-governance/self-determination question with only free-association in mind; it was also looking at the full-integration option in order to make an informed and educated choice. The act of self-determination would not necessarily be a sudden vote on the existing three options, because what had gone on previously had been a long process of elimination and negotiation with the administering Power on the merits and demerits of the free-association and integration options.

48. Governance and capacity-building were two important areas that would continue to be consolidated through the Modern House project. Much energy would be required to support the equal development of all three villages — most especially the councils of elders, which would be a major focus over the following 12 months. Of equal importance would be the special attention paid to the economic sector. In that regard, Tokelau appreciated the emphasis placed by the Chairman of the Working Group on the development of fisheries. Also deeply appreciated was the serious intent with which the administering Power took its responsibilities. New Zealand had demonstrated its commitment to follow the Tokelau process and had committed extra resources and ongoing material support for the Modern House project and the establishment of a Tokelau Trust Fund. The depth of understanding of the situation attained by Lindsay Watt, the Administrator, had contributed immensely to the success of the Tokelau process. He was truly a master fisherman of great renown and the children of Tokelau would remember him for his visionary wisdom.

49. The Ulu-o-Tokelau said he had seen and experienced during his visit a closing of the gap. Tokelau and New Zealand had consistently worked closely together in the process. The atmosphere afforded by the talks on a programme of work for Tokelau had put a warm human face on the Special Committee and not a distanced and cold bureaucratic one. Concluding, he spoke of his sense that self-determination for Tokelau was about dealing with the struggles and the search of humanity. It was about finding a place in the sun, a struggle for survival, a place for growth, a place to pray in peace, a place to walk as an equal among good men and women. The people of Tokelau were not that different from those who were in attendance that day. He would be happy to welcome the Special Committee in Tokelau early in the following year, but asked for time to consult his other partner further so that the visit could be beneficial for all three. That was the way of a family and he was proud to be an equal member of that family.

Notes

[1] Updated information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of New Zealand on 21 and 25 June 2001 and 11 March 2002, from the organizations of the United Nations system and from published sources.

[2] Communiqué, strategy meeting, 11-16 March 2002, Apia.

[3] Ministry for Foreign Affairs and Trade, www.mft.govt.nz.

[4] Tokelau/New Zealand Official Development Assistance annual programme discussions, Agreed Records, 25 May 2001.

[5] Newsletter for Transition Team and Joint Committee, vol. I, issue 2, 6 July 2001.

[6] UNDP programme of assistance to Samoa, Cook Islands, Niue and Tokelau, March 2001.

[7] Niue Economic Review/PINA Niue Online, 19 September 2001.

[8] Niue Economic Review, 17 October 2001.

[9] Press release, "History in the making" (February 2002), and information transmitted by the Administrator of Tokelau.

[10] UNDP, Pacific Human Development Report, 1999.

[11] Information received from WHO on 19 March 2001.

[12] WHO data reported by Pacific Islands Report/Radio Australia, 1 December 2000.

[13] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 23* (A/56/23), chap. XI, para. 203.

[14] Ibid., chap. XIII, sect. E, para. 225.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Cayman Islands

Working paper prepared by the Secretariat

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I. General

1. The Territory of the Cayman Islands[1] is located some 180 miles west of Jamaica and about the same distance south of Cuba. It comprises three islands: Grand Cayman (76 square miles), Cayman Brac (15 square miles), and the adjacent and largely undeveloped Little Cayman (11 square miles).

2. The official results of the national census conducted in October 1999 indicated that the population of the Territory was 39,410, about 55 per cent higher than the 25,355 residents recorded in the 1989 census. Caymanians make up about 53 per cent of the population, a decline from 67 per cent in 1989. In 10 years, the non-Caymanian population has about doubled, from 8,387 in 1989 to 18,529. An estimated 25 per cent are of African descent, 20 per cent are of European descent and the remainder are mixed.

3. At the time of the census, of 25,506 persons employed in the labour force, 10,629 or 42 per cent were Caymanian. The average annual per capita income was $20,000. Caymanians on average earned $31,751 while non-Caymanians averaged $29,735. Male residents earned on average $36,584 and females $24,940.[2]

II. Constitutional and legal issues

4. The Cayman Islands is a Non-Self-Governing Territory (Overseas Territory) under the administration of the United Kingdom of Great Britain and Northern Ireland. The Constitution of 1959 was revised in 1972, 1992 and 1994. Under the Constitution, the Governor, who is appointed for four years by the British monarch, is responsible for external affairs, defence, internal security and public service. The Governor is the Chairman of the Executive Council, which comprises three members appointed by the Governor, namely the Chief Secretary (until 1992 Administrative Secretary), the Financial Secretary and the Attorney-General, and five members elected by the Legislative Assembly, and is responsible for the administration of government. The Governor assigns ministerial portfolios to the elected members of the Executive Council. The Legislative Assembly comprises 3 official members designated in the Constitution and 15 members elected by universal adult suffrage for a period of four years. Since 1991, a Speaker is elected to preside over the Assembly.

5. Currently, the Governor of the Cayman Islands is Peter Smith. He will be succeeded by Bruce Dinwiddy, who is due to take up his appointment in May 2002.[3]

6. The judicial system is based on British common law, certain British statutes and local statute law. There is the Grand Court (with Supreme Court status), the Summary Court, which includes criminal, civil, family, youth and coroner's court. Appeals lie with the Court of Appeal of the Cayman Islands and beyond that with the Privy Council in London. In his throne speech to the Legislative Assembly, in February 2002, the Governor announced the forthcoming establishment of drug courts to deal with drug-related crime.

7. In March 1999, the Government of the United Kingdom presented draft legislation pertaining to its relations with its overseas territories. A proposal entitled "Partnership for progress and prosperity: Britain and the Overseas Territories" is known as the White Paper. The legislation proposed the extension of British citizenship to the citizens of the Territories; at the same time, it required the Territories to amend their local legislation, in particular on human rights and on the regulation of financial services to meet international standards. The bill completed a three-step process through the House of Lords in 2001 and completed its third reading in the House of Commons in February 2002. It received royal assent on 26 February 2002 and became the British Overseas Territories Act 2002. On 18 March 2002, Baroness Amos stated that the British Government was putting into place arrangements to implement the citizenship provisions, the commencement date of which would be announced no later than 21 May.[4]

III. Political developments

A. General

8. Until recently, there were no formal political parties in the Territory and the following loose groupings acted as political organizations: National Team, Democratic Alliance and Team Cayman. The general elections held on 8 November 2000, with a record number of 57 candidates running independently, ended the eight-year rule of the National Team, which lost six of its nine seats in the Legislative Assembly.

The newly elected Assembly appointed Kurt Tibbetts of the Democratic Alliance as Leader of Government Business.

9. On 5 November 2001, a majority of the Legislative Assembly members formed a political party, the United Democratic Party. Three days later, the Legislative Council voted nine to five (with one abstention) in favour of a no-confidence motion against Kurt Tibbetts, thus dismissing him as a leader of the Executive Council. The post of the Leader of Government Business went to the former Minister of Tourism, Mr. McKeeva Bush of the United Democratic Party. Those developments were followed by some political pressure for early elections, in particular by a group called "Concerned Caymanians". However, the new leader of the Government declared that there would be no new elections before those due in November 2004.[5]

10. According to Oxford Analytica, the events of November 2001 can be attributed to the economic problems in the Territory that had been accumulating during the previous year and became more evident in the wake of the 11 September terrorist attacks on the United States of America. The downturn in tourism exacerbated an existing slowdown, reinforcing the urgency of political modernization and highlighting the Territory's narrow economic base. The new administration will have to undertake the restructuring of the system in order to preserve the inherited advantages of the economy (see also chap. IV below).[6]

B. Constitutional review

11. In June 2001, a Constitutional Review Commission, consisting of three members, was appointed by the Governor. The Commission has organized a series of public meetings in order to hear what, if any, changes Caymanians want included in the new Constitution. In order to assist the process of the constitutional review, an 18-point constitutional modernization checklist has been presented to the public. It gave an indication of the standards that the Territory should seek to achieve, the obligations that it should strive to meet and the expectations of the Government of the United Kingdom in key areas of modernization.[7]

12. The constitutional review and the public meetings of the Constitutional Review Commission were widely discussed in the Territory's press during the period under review. According to press reports, there is a general agreement among the population that an update of the Constitution is needed. There is also wide support for the introduction of a bill of rights in the Constitution, as well as support for change in the electoral system to a one-man one-vote principle.[8]

13. Other main issues discussed during the public meetings were the question whether the Cayman Islands should change from its current system of government headed by a governor to the one headed by a chief minister; the qualifications required of candidates wanting to run for the Legislative Assembly; and the question of introducing the party system and multi-candidate constituencies.

14. The report of the Commission will be submitted to the Governor in 2002. Any changes to the Constitution will have to be approved by the Governor, British authorities and the Legislative Assembly of the Territory.[9]

IV. Economic conditions

A. General

15. The Cayman Islands has one of the highest standards of living in the Caribbean. The economy is based on tourism and on the Cayman Islands' status since 1966 as an international offshore finance centre. The principal sources of government revenue are import duties, company and bank and trust licence fees and stamp duties. There is no income tax, company tax or excise duty. Although imports outstrip exports by about 100:1, the visible trade gap is more than offset by invisible earnings from the tourism and financial services sectors.

16. The slowdown in economic performance in the world and, mainly, in the United States has had a negative impact on the economy of the Territory. However, the new Government formed in November 2001 has stated its commitment to introduce measures to modernize the Territory's economic structure and to maintain the high economic level irrespective of a temporary setback. In particular, the Government has said it would not introduce income tax or other form of direct taxation,[10] and would maintain the value of the local currency. (The currency of the Cayman Islands is the Cayman Islands dollar (CI$). The Cayman Islands

dollar is fixed against the United States dollar at the rate of CI$ 1 = US$ 1.20.)[11]

17. In September 2001, a new public management and finance law, was passed in the Territory. That law was the first step in a broader financial management initiative which would be carried out during the next five years. Its main focus would be to introduce a results-based management system in the Cayman Islands. The initiative would require the Government to operate with more transparency at all stages of financial planning and management and is expected to improve both the efficiency and effectiveness of government actions.

18. The Government that came to power in November 2001 has stated that it is determined to intensify the implementation of the financial management initiative. In this regard, it plans to pursue and further develop the partnership between the public and private sectors in the provision of public services and to fully privatize some of them. That might include the services currently provided by Radio Cayman, the Department of Vehicle and Equipment Services, garbage collection and debt collection.[12]

B. Budget

19. In his budget address of 2002, the Financial Secretary stated that the growth of the Cayman Islands economy slowed considerably in 2001. At the end of the year, the growth rate was estimated at 1.5 per cent, compared to earlier expectations of 3.0 per cent. As the main reasons for the economic downturn the Secretary named the slow growth of the United States economy and the negative effects of the 11 September terrorist attacks, especially on the tourism industry. In 2002, the downward trend in the economy is expected to continue and the growth is estimated to be 1.1 per cent.[13]

20. According to the Financial Secretary, for fiscal year 2001 the expected recurrent revenue is forecasted at $283.2 million, down $28.1 million against the 2001 budget of $311.3 million. The recurrent revenue is expected to exceed the 2001 budget projections in the following areas: gasoline and diesel ($1.6 million), cable and wireless licence ($1 million) and work permit fees ($1.1 million). Recurrent revenue is forecasted to be lower than projected in the 2001 budget in the following main areas: motor vehicles ($1.6 million), other import duties ($13 million), stamp duty on land transfers ($2.8 million), other stamp duties ($3.6 million), tourist accommodation tax ($1.4 million) and company fees ($2.7 million).

21. Recurrent statutory expenditure is forecast at $314.3 million, $13 million less than the modified 2001 budget of $327.3 million. Capital Development Fund expenditure is forecast at $23.5 million against a modified 2001 budget of $28.2 million. The receipts are forecast as follows: environmental fund — $3.4 million against a 2001 budget of $3.6 million; infrastructure development fund — $1.4 million against $2.9 million in the 2001 budget; and road development fund is forecast to equal the 2001 budgeted provision of $400,000.

22. The forecasted accumulated net budget deficit is $15.1 million, with a net deficit of $4.9 million from 2001 and $10.2 million from 2000. In order to alleviate the situation, the Financial Secretary proposed some cuts in expenditures and several increases in government revenues that would result in a $342.9 million balanced budget for 2002 with a $15.4 million operating surplus. The Government intends to borrow $8.8 million, which is considerably less than the $55.5 million borrowed in 2001. Projected increases in government revenues for 2002 totalled $54.9 million.

C. Agriculture, livestock and fisheries

23. Agricultural activities, limited by infertile soil, low rainfall and high labour costs, have nearly doubled over the past five/six years, with 10 large farms totalling over 100 acres now in service. Agricultural products include bananas, tomatoes, lettuce, honey, mangoes, citrus fruits, various vegetables and coconuts. Livestock rearing consists of beef cattle, poultry and pigs. According to information provided by the administering Power, the value of domestic agricultural products produced in 2000 was $1.8 million, an increase of 13.4 per cent from 1999. The largest increases were in meat and livestock produce (26 per cent), juice (18 per cent) and fruit (11 per cent).

D. Tourism

24. The tourism sector dominates the Caymanian economy, accounting for about 70 per cent of the gross

domestic product and 75 per cent of foreign currency earnings.

25. As had been reported in the previous working paper (see A/AC.109/2001/15, para. 30), it became apparent that the figures representing the number of tourists visiting the Cayman Islands had been miscalculated since 1994. In January 2002, the Leader of the Government Business (acting also as the Minister of Tourism) stated that "problems had been caused by a series of errors made over time by the Departments of Computer Services, Immigration, Statistics, and Tourism and that it might not be possible anymore to calculate a complete set of true arrival numbers for the period 1994 to 2000".[14]

26. Official tourist arrival figures for the first half of 2001 indicate an increase in air arrivals of 2.4 per cent from 192,409 in 2000 to 197,094 for the same period in 2001. Owing to the fact that 80 per cent of tourists come to the Cayman Islands from the United States, the terrorist attacks of 11 September 2001 had an adverse impact on the tourist industry, causing numerous cancellations. In September, hotel occupancy plummeted to as low as 10 per cent. The Leader of the Government qualified the six weeks following the attack as "the most devastating in the recent history of travel and tourism". As a result, the hotel occupancy rate for the three first quarters of 2001 was 58.7 per cent, compared with 64.6 per cent in 2000. At the same time, the number of cruise ship arrivals reached 627,251 by the end of September 2001, an increase of 7.7 per cent compared with 582,182 for the same period in 2000.

27. The Government continued its efforts to improve the performance of the tourism sector. The budget address for 2002 outlines several initiatives which include a million-dollar television advertisement campaign to be launched in eight cities in the United States and Canada; 72 additional cruise ship calls expected to bring about 365,000 visitors to the Territory; the promotion of on-island tourism; and a training programme for front-line staff working in customs and immigration.[15]

28. The growing number of cruise ship tourists brought to light the problem of congested harbour facilities. After complaints from the cruise lines, the responsibility for scheduling cruise ship arrivals was transferred from the Department of Tourism to the Port Authority. The Port Authority discovered that, on certain dates, the number of cruise passengers would significantly exceed the capacity of the harbour as well as other services in George Town. To redress the situation, rescheduling of cruise ship arrivals was necessary, at least as a temporary measure. For a long-term solution, the Port Authority is in the process of finalizing the plans for the expansion of the port.[16]

29. Among other improvements proposed by the Government is a change in the entertainment laws of the Cayman Islands which would provide extended hours of entertainment for the benefit of the tourists. (Currently, the Liquor Licensing and Music and Dancing Laws require nightclubs and bars to close at 11.45 p.m. on weekdays and 12.45 a.m. on weekends and require customers to follow a dress code.)[17]

30. According to the Governor, an Investment Bureau is due to be established by mid-2002 to promote tourism and the financial services of the Cayman Islands and to provide a "one-stop-shop" for those interested in investing in the Territory. To this end, Cayman Islands tourism and investment offices are planned to be established in London and New York by November 2002.

31. The construction of the $350 million Ritz-Carlton resort and condominium project, partially financed with a $105 million loan from the Royal Bank of Scotland, is proceeding. Phase one, which involves the construction of a 366-room hotel, 71 condominium units and a golf course, is scheduled for completion in 2003. Phase two, which would be completed in 2005, will include the construction of 300 villas and 12 larger residences.[18]

E. Financial services

32. The Cayman Islands remains among the top international financial centres, with 48 of the world's top 50 banks holding licences there. The banking sector employs more than a tenth of the labour force and contributes 15.5 per cent of the GDP. In September 2001, there were 548 licensed banks and trust companies (compared with 569 in September 2000), 564 licensed insurance companies (545 in 2000) and 3,476 registered mutual funds (2,900 in 2000). In the first three quarters of 2001, 6,680 new companies were registered, compared with 9,963 in the same period in 2000.[19] The Territory is the second largest offshore mutual fund jurisdiction. In 2000, it had 3,014

registered mutual funds with more than $250 billion in assets. The Cayman Islands Stock Exchange, which began operating in 1997, has been one of the fastest growing exchanges in the world. In June 2001, it had a market capitalization of $36 billion and more than 400 listings. Mutual funds account for around 75 per cent of the exchange.[20]

33. The Monetary Authority, which oversees the financial industry, was established in 1997. According to the Financial Secretary, the Government is planning to present in 2002 legislation that will provide for the independence of the Monetary Authority in its supervision and regulation of financial services. The agency will have the responsibility to ensure that the regulations applied in the Territory "both meet recognized international standards and are appropriate to the business conduct".

34. As has been reported in the previous working paper (see A/AC.109/2001/15, paras. 34-41), the Cayman Islands had been included in a list of countries and jurisdictions whose financial practices were conducive to tax evasion and money-laundering by the Organisation for Economic Cooperation and Development (OECD). The Government of the Cayman Islands has made considerable efforts to improve its legislation in keeping with the Territory's status as one of the major international financial centres and its sound business reputation.

35. In June 2001, the Cayman Islands was removed from the list of non-cooperative countries after the Financial Action Task Force (FATF) Review Group of the Americas conducted an on-site visit to the Territory in April 2001 and reported that the Cayman Islands was deemed compliant with the 25 criteria used for evaluation. FATF commended the Cayman Islands, stating that it had taken concrete steps to implement legal reforms and made significant improvements in its anti-money-laundering systems.[21] Following the FATF review, the Government set up two bodies, namely the Monetary Authority's Committee on the Anti-Money-Laundering Guidance Notes, with significant private sector representation, and a money-laundering oversight committee chaired by the Attorney-General and comprising the key government officials. These bodies will ensure that the anti-money-laundering framework remains current as well as appropriately responsive to relevant local and international developments.

36. According to the Financial Secretary, the initiatives of OECD, the European Union and FATF related to harmful tax practices and money-laundering can be expected to continue in the future. The Government intends "to position the Cayman Islands successfully in relation to these initiatives as they develop, following on from the OECD cooperative country status achieved in May 2000, the positive outturn from the Klynveld, Peat, Marwick and Goerdeler (KPMG) consulting firm review of October 2000, and the FATF cooperative country status achieved in June 2001".

37. In compliance with the commitment on information-sharing with other countries, on 27 November 2001 the Cayman Islands Government signed a tax information exchange agreement with the United States. The agreement is not retrospective. The Territory has two years to develop the necessary legislation. It will apply to criminal tax evasion beginning from January 2004, and to civil and administrative tax matters beginning from January 2006. The definition of criminal tax evasion and the requirement for a valid request for information are being developed.

38. In the aftermath of the 11 September terrorist attacks, the Government of the Cayman Islands expressed its willingness to assist the investigation of the terrorists' financial resources and to freeze terrorist-related accounts. In February 2002, the Government announced its readiness to cooperate with the United States Government in the investigation of the bankruptcy of the Enron Corporation. According to reports, out of more than 800 offshore subsidiaries used by Enron, as many as 692 were in the Cayman Islands.[22]

F. Transport and communications

39. The Territory's development as an international business centre is dependent on modern and reliable telecommunications and utility services. Currently, the multinational company Cable and Wireless holds an exclusive licence for provision of telecommunication through its local Cable and Wireless (Cayman Islands) Ltd. The Government of the Territory plans to take steps to liberalize the telecommunication sector of the economy. The process will begin in 2002. The Government has expressed the hope that, with new companies entering the local market, the prices for

information and communication services will go down, which, among other things, will stimulate the expansion and the competitiveness of the e-commerce sector of the economy. According to the Financial Secretary, a new information and communications bill, which will subsume existing broadcasting, radio and telephone laws, will be presented to the Legislative Assembly, and a new Information and Communications Technology Authority will be set up in early 2002.[23]

40. International air services are provided between Grand Cayman and the United States, Canada, Europe, Jamaica, Honduras and Cuba. Major United States and British airlines operate regularly to and from the Caymans. Domestic airline services and charters operate between the sister islands of the Caymans. During the period under review, a renovation project of the Cayman Brac's airport was completed. The runway, apron and aircraft parking stands were resurfaced, new runway lights were installed and the flooding problem of the runway was solved by installing a drainage system. Renovations were seen by the Minister of Tourism to be an important step towards providing reliable air service, which is imperative to the development of the island.[24] According to the Governor, efforts are under way to prepare a major development programme to improve the infrastructure at the Owen Roberts International Airport.

41. The port of George Town, Grand Cayman, was the main gateway for the 965,706 cruise ship tourists who visited the island during 2001. The Cayman Islands are served by scheduled passenger liners, and a number of locally owned or registered vessels provide cargo services between Miami, Tampa and Jamaica. While cargo tonnage is not expected to increase in 2002 owing to a sluggish economy, the number of cruise ship passengers is expected to reach record levels.[25]

42. Following the election in November 2000, the Tourism, Environment and Transportation Minister asked the Port Authority to review the George Town port development project. According to the Governor, upgrading plans for the cruise facilities are being finalized. The first phase of the development, construction of a new cruise tender terminal, is expected to begin in mid-2002. The second phase of the port development will include the reconstruction of the current terminals.

43. According to information provided by the administering Power, in the year 2000 the Cayman Islands Shipping Registry saw a continuing increase in registrations, raising the total number of vessels on the registry to nearly 1,400. In commercial shipping, tonnage growth in excess of 30 per cent yearly was maintained for the third year running. Yacht registrations continued to grow, maintaining the Cayman Islands position as the world's leading offshore registry for "superyachts".

44. According to the Governor, the Shipping Registry is scheduled to become a Statutory Authority. During 2002, it is proposed to submit some 40 new regulations under the Merchant Shipping Law and Merchant Shipping Marine Pollution Law to give local effect to the range of developments in international shipping conventions that apply in the Cayman Islands.

G. Water system, sanitation system and utilities

45. The Public Works Department is responsible for maintaining the public and government infrastructure in the three islands. The Caribbean Utilities Company, a local corporation, is responsible for the generation and distribution of electricity, under a government franchise, on Grand Cayman, while the Cayman Brac Power Company provides the service for the sister islands. The government-owned company, Water Authority Cayman, and the private Cayman Water Company provide water and sewerage services, which complement residents' private wells and cisterns.[26]

V. Social conditions

A. General

46. According to the administering Power, the aim and effect of legislation and action by the Government in the social sphere is to create a society in which individual effort is rewarded while a cushion is provided, often with voluntary help, for the less fortunate.

47. The Government provides assistance for the elderly and disabled, children and young people, persons with mental illness and learning disabilities, and families in financial need. Major services include residential and day care, home help for those confined

at home, other social services for Cayman's youth and women, and drug prevention and rehabilitation programmes. Children's services carried out by the Department of Social Services include adoptions, foster care and the operation of several children's homes.

48. Numerous voluntary and service groups provide assistance to address many social concerns. Many of them are dedicated to specific causes, such as drug prevention and rehabilitation, cancer and the prevention of cruelty to animals. These groups are supported mainly by donations from the Government, the private sector and individuals, and are generally staffed by volunteers.[27]

B. Human rights

49. The Territory is subject to several major human rights conventions to which the administering Power has acceded. The United Kingdom regards the observance of human rights as an important aspect of the partnership with its Overseas Territories and expects that their legislation should comply with the rights extended to them. The Cayman Islands ratified the following core human rights instruments: the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Second Optional Protocol to the International Covenant on Civil and Political Rights (aiming at the abolition of the death penalty). However, the Territory has not yet ratified the Convention on the Elimination of All Forms of Discrimination against Women.

50. The question of including a bill of rights incorporating all basic human rights in the Constitution of the Cayman Islands was discussed in the framework of the review of the Territory's Constitution. Caymanian laws already guarantee many human rights. At the same time, the Cayman Islands remains the only one of Britain's overseas territories without a bill of rights although it is required to have such a bill under various conventions and agreements to which the United Kingdom is a party.[28] One of the issues connected to the bill of rights is the question of gender equality. In his throne speech, the Governor of the Territory reported that the National Policy on Gender Equity and Equality was expected to be finalized by July 2002. He also reported that the establishment of a place of safety for battered women and their children was in progress.

51. In September 2001, the Cayman Islands Government hosted the Human Rights Today Caribbean Symposium, attended by more than 400 delegates from 21 countries. The participants were mostly from the English-speaking Caribbean countries as well as the British Overseas Territories. A wide spectrum of human rights issues was discussed in the symposium. According to the press reports, many delegates from the British Overseas Territories of the Caribbean area criticized the Overseas Territories Bill for attaching the human rights conditions to the offer of British citizenship. That way, the British Government was seen trying to impose its wishes on the Territories.[29]

C. Housing and construction

52. The Housing Development Corporation Law of 1981 provides for the promotion of housing development by extending mortgage loans guaranteed by the Government to residents in the low- to middle-income bracket. Local banks provide up to 100 per cent financing on the strength of a 35 per cent government guarantee.

53. According to the Financial Secretary, the construction industry in the Territory has experienced a continuous decline since 1999. In September 2001, the value of approved developments was $130.1 million compared with $287.2 million registered in September 2000 and $303.5 million in September 1999. The largest decline has been in the apartments category, where approvals fell from $166.4 million in September 1999 to $34.0 million in September 2001. The value of real estate transfers, which in 2000 had risen to $205.2 million, compared with $141.9 million in 1999, dropped to $144.6 million in 2001.

54. To boost the performance of the industry, at the end of 2001, the Government announced concessions for a period of one year in the real estate market and construction industry which include considerable reductions in collections and fees for building permits and infrastructure projects.

55. According to the Governor, a new Cayman Islands Development Bank would replace the Housing

and Development Corporation in managing the home mortgage scheme in 2002. One of the emphases of the new development bank will be on housing for the lower income population. The development bank will be utilizing funds from a recently approved loan from the Caribbean Development Bank.

D. Land

56. According to information provided by the administering Power, some $258 million worth of land changed hands in 2000. While that represented an increase of 12.1 per cent over the value of recorded land transactions in 1999, the number of transactions in 2000 actually decreased, as did tax revenues derived from them. The stamp duty on land transfers in 2001 brought revenue of $2.8 million.

E. Labour

57. According to information provided by the administering Power, the employed labour force in 2000 was 25,459 with Caymanians comprising about 42 per cent. At year-end 1999 there were some 14,000 work permit holders. The workforce includes nationals of 78 countries, with the greatest portion coming from Jamaica, the United States, Canada and the United Kingdom.

58. A local trade union, the National Alliance of Cayman Islands Employees (NACE) was formally launched in 1999. It is believed to be the third such local organization since the passage of the Trade Union Law in 1942.[30]

59. The current Labour Law provides for 12 weeks of mandatory maternity leave in a year, after 12 months of service, of which four weeks will be paid leave. The new law is proposed to increase full maternity leave pay by two weeks to two months and also to include paternity leave.

60. The Department of Human Resources is charged with administering the Labour Law, which governs the terms and conditions of employment in the Territory. A White Paper for Employment Relations, containing suggestions to restructure the employment administration and to comprehensively revise the employment, pensions, trade union and business legislation, was tabled in the Legislative Council in March 2002 for public hearings. According to the Minister for Education, Human Resources and Culture, the revised Labour Law will be called the Employment Law and will include all employees and employers. According to the proposed law, employment tribunals will be separated from the regulatory function of the new Employment Relations Department and the jurisdiction of employment tribunals will be enlarged to handle any labour-related complaint between employers and employees regarding any aspect of the new employment legislation package.[31]

61. Owing to the fact that the economic growth slowed sharply during the past year, job insecurity among the Cayman-born population began to increase. While the economy was booming, the job offers in the Territory exceeded local labour supply and the economy relied heavily on its expatriate workforce (up to 40 per cent). According to an Oxford Analytica report published in November 2001, with the Government cutting jobs and key private sector employers, including Cable and Wireless and Cayman Airways, laying off staff, pressure had mounted on the Immigration Department to refuse the renewal of work permits to non-nationals whenever qualified local substitute workers were available.[32]

F. Education

62. Education is compulsory for all resident children between the age of 4 years 9 months and 16 years. The Government is directly responsible for education within this age group. Two public institutions and one private school provide tertiary education. The Community College of the Cayman Islands is government-owned but independently administered. The Cayman Islands Law School is also government-owned, while the College of the Cayman Islands is private.

63. The Government currently operates six primary schools, one middle school, two high schools and one alternative education centre on Grand Cayman, as well as three primary schools and one high school, which incorporates the middle-school level, on Cayman Brac. Tuition is free for Caymanians at those schools, but an annual book rental fee of CI$ 100-150 per student is charged. In addition, 10 private schools provide primary and/or secondary education. All private schools are monitored by the Education Department and receive grants from the Government. In 2000-2001, total enrolment was 3,996 in government schools

and 1,958 in private schools. In 2001-2002, total enrolment in government schools was 4,065.[33]

64. During the period under review, a report on Caymanian teachers raised concern that only 28 per cent of the public school teachers and 8 per cent of the private school teachers were Caymanian. One of the main recommendations of the report was to improve the working conditions and benefits of local teachers. (The expatriate teachers receive a 15 per cent supplement to their salary while the local teachers do not.)[34]

65. During her speech at the National Education Conference, the new Chief Education Officer stated that the current priority in the education system was to set the appropriate performance standards for students and to test their mastery of the national curriculum by means of mandatory external assessment tests every year. She also noted that the building of one or more government primary and secondary schools would be needed to alleviate the problem of overcrowding.[35]

G. Public health

66. The Health Services Department is responsible for the provision of all government health care, including public health services. In addition to general medical care, a wide range of specialist services is available locally. The Government has a contractual arrangement with the Baptist Hospital in Miami for tertiary care services. According to the administering Power, contraceptive services are provided free of charge, in addition to free antenatal service, which is already being provided for all residents irrespective of nationality. The Health Practitioners Board has responsibility for the registration of private practitioners. By July 2002, the Health Services Department will become a Statutory Authority. There is a 124-bed hospital in George Town. The facility includes a state-of-the-art, fully staffed accident and emergency room. There is also an 18-bed hospital on Cayman Brac, and several district health centres and clinics. In 2000, there were 84 registered doctors and 14 dentists on the Cayman Islands.

67. According to the Governor, with the commissioning of new purpose-built in-patient facilities scheduled for completion by the middle of 2002, the provision of mental health, hospice and geriatric services will be substantially enhanced.

68. A health insurance law passed in 1997 established a system of compulsory health insurance for all residents. According to the Government information service press release, in order to bring the cost of health care in line with the actual costs of providing services, health-care fees and charges will be raised considerably in 2002. The increase will be executed in two phases. In January fees were raised by 30 per cent overall, and in April fees will be raised some more. Furthermore, new fees and charges for previously free services will be introduced and fees for non-residents will be higher than fees for residents.[36] About 11,000 persons are entitled, with some restrictions, to free medical care at the Government's expense.

69. In 1997, a law was passed establishing the National Drug Council as an independent, non-profit statutory corporation with the mission of coordinating anti-drug efforts in the Territory. A survey by the National Drug Council published at the end of 1998 found that 11.5 per cent of students had used solvents and 10.5 per cent had used "ganja". The Government is taking measures to combat the problem. According to the Governor, the Drug Resistance Awareness programme will be extended to all public schools on the island during 2002.

H. Crime and public safety

70. The Royal Cayman Islands Police force comprises 295 officers and 40 support staff. It has a shortfall of Caymanian recruits and has officers seconded by the United Kingdom. Officers recruited are from Jamaica, Belize, Barbados, Canada, Nicaragua, Trinidad, Honduras, the Bahamas, Nigeria and the United States. In 2002, front-line policing will be strengthened by the recruitment of auxiliary constables in order to release trained officers for operational duty. Additional recruitment of special constables will provide a more visible police presence.[37]

VI. Environment and natural resources

71. The Islands have 25 endemic species of plants and reptiles. On Grand Cayman, a botanical park and bird sanctuary provide safe environments for endangered species of birds and lizards. Little Cayman is host to a wide variety of flora, fauna and birdlife. It

also has its own bird sanctuary. Over 200 species of birds have been identified on the Islands. Over the years, the Government of the Cayman Islands has employed a variety of conservation strategies, including the establishment of a system of marine parks and protected areas on land and the development of public education and integrated species conservation. Growing public awareness and the development of expertise among government and non-governmental organizations has also contributed to placing local environmental concerns on the national agenda.[38]

72. Local laws and regulations and administrative and institutional arrangements which enable the protection and conservation of the natural environment are in place. Through the Government of the United Kingdom, the Cayman Islands are party to a number of legally binding international conservation agreements.[39] A new marine pollution law has been drafted. The Territory has set a world standard in marine conservation. The Cayman Islands Turtle Farm serves as a breeding ground for the green turtle. After being bred and hatched on the farm, they are released into the ocean. This has led to an increase in the previously diminishing sea turtle population.[40]

73. The rapid pace of development has placed stress on the Cayman Islands' land and marine ecosystems. The Department of Environment, a government environmental agency, and the National Trust (a non-profit organization for environmental preservation) work together to ensure responsible management and sustainable use of the natural environment and resources. During the period under review, the National Trust reported that the Cayman Islands' indigenous land crab population was declining rapidly. The main reason for the massive decline was the destruction of the habitat caused by development of the coast and destruction of the mangroves. Other reasons included over-harvesting and new and existing roads.[41]

74. In September 2001, the Cayman Islands and the United Kingdom signed an environmental charter, which conforms to the principles set out in the Rio Declaration on Environment and Development. The charter covers such issues as environment and development interface, habitat and species conservation, pollution, energy and technology issues, and natural disasters. The charter contains 10 guiding principles and 11 commitments for both the United Kingdom and the Cayman Islands related to the environment.[42]

VII. Relations with international organizations

75. In February 2002, the Cayman Islands, which had been an observer with the Caribbean Community (CARICOM), were approved for associate member status. However, as a British Overseas Territory, the Cayman Islands are not allowed to vote or to participate in or take positions on matters of foreign affairs or other matters that are reserved for the United Kingdom under the Constitution, and as such they needed the approval of the Government of the United Kingdom for the formal application for membership. The terms and conditions of associate membership will have to be considered by the Cayman Islands Executive Council and Legislative Assembly and, if accepted, the Cayman Islands is expected to accede to associate membership of CARICOM in May 2002.[43]

76. According to a press release from the Territory's Government, as an associate member of CARICOM, the Cayman Islands will have representation in forums and meetings such as the World Bank and the International Monetary Fund (IMF). The Territory will also be able to increase its bargaining power on issues of common concern to CARICOM and the Cayman Islands, such as OECD/FATF matters. Furthermore, associate membership will allow participation and wider access to technical assistance in the various programmes and working groups of CARICOM. Associate member status does not require the Cayman Islands to participate in the Caribbean Single Market and Economy, which would entail the free movement of CARICOM nationals and goods and services across the borders of the Cayman Islands.

VIII. Future political status of the Territory: position of the administering Power

77. On 8 October 2001, the representative of the United Kingdom made a statement before the Fourth Committee (see A/C.4/56/SR.3) in which she welcomed the opportunity to present its position as an administering Power and reported on "further progress made towards the modernization and development of

the relationship between the United Kingdom and its overseas Territories".

78. The United Kingdom representative said that the third meeting of the Overseas Territories Consultative Committee had been held in London in September 2001. The meeting had been hosted by Baroness Amos, who was appointed Foreign Office Minister for the Overseas Territories in June 2001. The Consultative Committee provided a forum for structured political dialogue and exchange of views between the elected representatives of the Overseas Territories and Her Majesty's Government. The meeting was an opportunity to continue dialogue on the management of public affairs and future development of the Overseas Territories, and enabled Ministers and Overseas Territories Governments to consult on matters such as the process of constitutional review and human rights issues arising from the United Kingdom's international commitments.

79. The representative of the United Kingdom said that the United Kingdom's partnership with her Overseas Territories continued to evolve and progress. On 21 June, the Government had introduced to Parliament the British Overseas Bill, which would grant British citizenship, with right of abode in the United Kingdom, to British Dependent Territories citizens from 13 of the United Kingdom's 14 Overseas Territories in fulfilment of a commitment made in the 1999 White Paper on the relationship between the United Kingdom and the Overseas Territories. The bill would also formally change the nomenclature from dependent to overseas territory to reflect more accurately the nature of the relationship. The United Kingdom and most overseas Territories adopted an Environment Charter on 26 September. That set out 10 guiding principles which express the key environmental commitments that the international community has adopted. Those (guiding principles) were followed by specific commitments on the part of the United Kingdom and Overseas Territories' Governments, indicating how they would work in partnership for the benefit of the environment. It was a good example, the representative of the United Kingdom said, of how progress could be made working together in an area of mutual interest, which was critical to the future prosperity, well-being and even survival of many of the Overseas Territories and their communities.

80. The representative of the United Kingdom pointed out that, as the record showed, for the United Kingdom, the wishes of the peoples concerned, exercised in accordance with the other principles set out in the Charter of the United Nations and in other international treaties, are of paramount importance. The relationship of the United Kingdom with the Territories continued to be based on the following fundamental principles: self-determination; mutual obligations; freedom for the Territories to run their affairs to the greatest degree possible; and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. The representative of the United Kingdom said she was sure the Committee recognized the basic commonality of approach between the British Government and the Committee.

81. Nevertheless, she stated, it was a pity that while there was so much in common in their approaches, that was not always properly reflected in all relevant resolutions, in particular of the Special Committee on decolonization. The United Kingdom welcomed the fact that the annual "omnibus" resolution stated that "... in the decolonization process there is no alternative to the principle of self-determination". The United Kingdom therefore regretted that the Committee of 24 continued only to apply this principle selectively. This principle was enshrined in the Charter of the United Nations and the International Covenant on Civil and Political Rights.

82. The United Kingdom, she stated, would continue to work to improve its cooperation with the Committee of 24. A representative of the United Kingdom attended the regional seminar of the Special Committee in Havana in 2001.

83. The United Kingdom welcomed the efforts made by the Committee of 24, begun under the constructive leadership of Ambassador Donigi, to pursue informal dialogue with the administering Powers with a view to the possible future removal of the Territories from the Committee's list. Careful preparations would be necessary before the United Kingdom could expect substantive progress to be made but the United Kingdom remained ready to cooperate with the Committee in those efforts.

IX. Consideration by the General Assembly

84. On 10 December 2001, the General Assembly adopted, without a vote, resolution 56/72 B, section V of which deals with Cayman Islands.

Notes

[1] The present working paper is based on information provided by the administering Power under Article 73 *e* of the Charter of the United Nations, as well as from published sources.

[2] Cayman Islands, 2000, Annual Report and Official Handbook (provided by the administrating Power).

[3] News Release, Foreign and Commonwealth Office, United Kingdom, 29 November 2001.

[4] Press Release "Baroness Amos and Citizenship", *St. Helena Herald*, 22 March 2002.

[5] *Caribbean Insight*, 23 November 2001.

[6] Oxford Analytica, via NewsEDGE/LAN, 30 November 2001.

[7] *The Caymanian Compass*, 27 September 2001.

[8] See, for example: *The Caymanian Compass*, 28 June 2001, 29 June 2001, 23 August 2001, and 21 September 2001.

[9] *The Royal Gazette*, 29 June 2001.

[10] *Caribbean Insight*, 10 August 2001; "State of the Nation — The Way Forward", speech made by the Honourable W. McKeeva Bush, OBE, JP, Leader of Government Business, 10 January 2002.

[11] Press Release, Cayman Islands Monetary Authority, 8 March 2002; *Cayman Net News*, issue 119, October 2001.

[12] Budget Address 2002, George A. McCarthy, O.B.E., J.P., Financial Secretary, 5 December 2001.

[13] Ibid.

[14] Statement by the Honourable W. McKeeva Bush, OBE, JP, Leader of Government Business, Minister of Tourism, Environment, Development and Commerce, 9 January 2002.

[15] Budget Address 2002, George A. McCarthy, O.B.E., J.P., Financial Secretary, 5 December 2001; *The Caymanian Compass*, 17 October 2001.

[16] Statement by McKeeva Bush, Minister of Tourism, Environment and Transport, 16 July 2001.

[17] *The Caymanian Compass*, 15 June 2001, 10 October 2001.

[18] *Caribbean Insight*, 30 March 2001, 10 August 2001.

[19] Budget Address 2002, George A. McCarthy, O.B.E., J.P., Financial Secretary, 5 December 2001.

[20] NewsEDGE, 15 July 2001.

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Guam

Working paper prepared by the Secretariat*

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I. Background information

A. Geography and population

1. Guam[1] is the southernmost and largest of the Mariana Islands in the Pacific, situated about 1,350 miles south of Tokyo and 3,700 miles west-south-west of Hawaii. It consists of a single island of approximately 212 square miles. It comprises two distinct geological areas of about equal size. The northern part of the island is a high coralline limestone plateau and contains the northern water lens, capable of supplying plenty of fresh water. The southern region is mountainous. Apra Harbour, which is located on the central western side of the island, is one of the largest protected harbours in the Pacific and is considered to be the finest deep water port between Hawaii and the Philippines. The capital city of Guam is Hagåtña, changed from Agana in June 1998 by the Congress of the United States of America at the request of Guam's delegate. Hagåtña more precisely reflects the indigenous Chamorro language pronunciation.

2. According to the United States Census Bureau's official census, the population of Guam in 2000 was 154,805, an increase of 21,653 (16 per cent) since the 1990 census.[2] These figures included 3,764 births and 648 deaths.[3] According to the census, the ethnic and racial composition of Guam's population is 37 per cent Chamorro (who are indigenous to the Territory), the population from the Freely Associated States amounts to 11,094, an increase of 128.18 per cent since 1990 and 61,172 from other Asian countries, an increase of 30.91 per cent since 1990, with the largest group being Filipinos (40,729). On the other hand, the white population was 10,509, a 43.33 per cent decrease since 1990. English and Chamorro are the official languages.

3. Most of the population are Christians, principally (90 per cent) Roman Catholic. Other major religious denominations are Baptist, Seventh-Day Adventist, Latter-day Saints and Episcopalian. There are some Jews, Buddhists, Muslims and Jehovah's Witnesses.[4]

II. Constitutional, legal and political issues

A. General

4. Guam was administered by the United States Department of the Navy until 1950, when the United States Congress enacted the Guam Organic Act, which established institutions of local government and made Guam an organized Territory. Since then, the Territory has been administered by the Department of the Interior. Guam is an unincorporated Territory since not all provisions of the United States Constitution apply to the island. As an unincorporated Territory, in United States law Guam is a "possession of the United States but not a part of the United States".

B. Constitutional structure

5. Guam has a locally elected Government, which comprises separate executive, legislative and judicial branches. Universal suffrage with respect to local elections applies to Guamanians 18 years and older. Guamanians are citizens of the United States, but are not eligible to vote in the United States presidential elections while resident in the Territory. The people of Guam elect a Governor, who serves a four-year term. Guam elected its first Governor in 1970. The Governor is responsible for the general supervision and control of the executive branch and submits an annual report to the Secretary of the Interior for transmission to Congress. The Governor may issue executive orders and regulations, recommend bills to the Legislature, make his views known to that body and veto legislation.

6. The people also elect 15 senators (as of 1998, when the people of the Territory voted in a referendum to reduce the size of the Legislature from 21), who serve two-year terms in a unicameral Legislature. The Legislature may override the Governor's veto. Under the Organic Act of 1950, the United States Congress reserves the authority to annul any law enacted by the Guam Legislature.

7. In 1972, a new law gave Guam one non-voting delegate to the United States House of Representatives. The delegate, who serves a two-year term, may vote in committee but not on the floor of the House.

C. Legal system

8. The local judicial system is made up of a Superior Court and a Supreme Court led by judges appointed by the Governor and confirmed by the Legislature. Local judges are subject to confirmation by the voters every six years. A District Court judge, appointed by the President of the United States, is the head of the United States District Court for Guam. In 1998, Congress adopted an amendment to the Organic Act allowing the Guam Legislature to elect its own attorney-general in 2002.

9. In February 2001, Guam's delegate to the United States Congress, Robert Underwood, reintroduced a bill, the Guam Judicial Empowerment Act, which would create a Guam Supreme Court that was separate from the Legislature's statutory management. The bill would also make the Supreme Court the ultimate appellate authority on Guam and the administrative authority over the judicial system. Currently, the Guam Supreme Court is a government agency created by the Legislature, while the Superior Court administers the judicial branch. According to Congressman Underwood, this arrangement makes the Supreme Court susceptible to political interference, while his bill would create clearer lines of separation between the judicial and legislative branches. Versions of the bill have been proposed in the past, but they were blocked in committee by a chairman who believed that Guam should resolve the issue by adopting a Constitution rather than by amending the Organic Act, which the proposed bill would do (see para. 14 below).[5]

D. Political parties and elections

10. Guam has two main political parties, the Republican Party and the Democratic Party, which are local chapters of the two main United States political parties. In the most recent election, in November 1998, Democrat Carl T. C. Gutierrez won re-election to the post of Governor against Republican candidate Joseph Ada, while the Republican Party won 12 of the 15 seats in the Guam Legislature.

E. Political issues

11. Guam has long been seeking to change its political status relative to the United States. In a 1976 referendum, Guamanians decided to maintain close ties with the United States, but to begin negotiations to improve the Territory's status. In 1979, the people of Guam rejected a draft constitution by a margin of five to one, mainly on the grounds that the question of political status had to be resolved before a meaningful constitution could be drafted.[6] In a 1982 run-off referendum, 73 per cent of voters opted to pursue commonwealth status with the United States. According to the Commission on Self-Determination, established in 1984 to draft a commonwealth agreement, this status was intended to be an "interim" status that would provide an opportunity for Guam to structure a better relationship with the United States.

12. In May 1986, the Commission on Self-Determination completed a draft Commonwealth Act, which, after a public education campaign, was submitted to an article-by-article vote on 8 August 1987 (see A/AC.109/1192, paras. 19-37). Voters approved the central proposal, but rejected articles empowering the Government of Guam to restrict immigration and granting the indigenous Chamorro people the right to determine the future political status of the Territory. In a further referendum in November 1987, both of these outstanding provisions were approved after they were amended and rewritten. A summary of the main points in the draft Commonwealth Act is contained in the 2001 working paper (A/AC.109/2001/4).

13. Negotiations between the Guam Commission on Self-Determination and the United States Government over the draft Commonwealth Act began again in 1989 and continued through 1997 without resolution (see A/AC.109/2000/6, paras. 19-22, A/AC.109/1192, paras. 19-37 and A/AC.109/2018, paras. 74-83). According to a statement made by Governor Gutierrez to the House Resources Committee of the 105th Congress in October 1997, the position of the United States executive branch with regard to the draft Act has essentially been that it was unconstitutional insofar as it did not recognize Congress' plenary authority over Guam.

14. In 1997, Guam public law 23-147 established a Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination. This Commission, in concert with a process of registration of eligible voters by the Guam Election Commission, was to oversee the conduct of a vote on the Chamorro people's status preferences of independence,

integration or free association in accordance with international standards. Guam's political leaders agreed to delay this process in 1997 and 1998 while congressional consideration of the draft Guam Commonwealth Act was under way.

15. In 2000, the Guam Legislature provided the Guam Election Commission with the power to set the date of the decolonization plebiscite. The plebiscite would ask the Territory's indigenous people, defined by law, as persons or descendants of persons who were in Guam at the time of the United States ratification of the Treaty of Peace with Spain in 1898, and/or persons or descendants of persons who received United States citizenship pursuant to the Organic Act of 1950, to choose between statehood, independence or free association with the United States. The plebiscite would be non-binding but would set the course of any future status negotiations with the administering Power. The plebiscite has been postponed several times since 1997, because of funding problems, and to provide adequate time for the registration of voters and the conduct of an education campaign. The plebiscite is now scheduled for September 2002 but might be further delayed for the same reasons. As of mid-January 2002, only 15 people out of 16,000 eligible to vote were listed on the Guam Decolonization Registry, which will be used to determine eligible voters for the plebiscite.[7]

16. As is described under the relevant sections below, Guam has been able to address some practical problems arising from its political relationship with the administering Power by sponsoring legislation in the United States Congress or petitioning the federal agencies for regulatory changes. Clauses related to the disposal of excess federal land in the Guam Omnibus Opportunities Act, and Food and Drug Administration regulation changes regarding the importation of betel nut,[8] are examples. This ad hoc approach, however, is relevant only to technical issues rather than structural ones. Furthermore, the approach depends on the disposition of the administering Power to consider the issues raised by Guam.

17. Another development during the review period with regard to Guam's political status was the reintroduction by Guam's representative to Congress of a bill, the Insular Area Oversight Avoidance Act, which would require the Office of Management and Budget to provide an explanation each time any of the Territories was excluded from Presidential initiatives or executive orders. According to the delegate, this measure would ensure that Territories would not be excluded as an oversight.[9]

III. Budget

18. In a recent legislative radio address, Speaker Tony Unpingco stated that, for the preceding three years, the Legislature had been forced to make budgetary decisions in the dark because of the absence of accurate financial information. According to him, the poor availability of crucial financial and economic data is in part caused by failed computerized financial data systems.[10] Some economic data will be collected and analysed by a team of economists of the University of Guam, the Bank of Guam and the Department of Labor so that policy makers would have a sound basis for making decisions concerning the economy.[11]

19. Most of the Government's revenues come from hotel occupancy and gross receipt taxes generated by activities in the tourism industry. The budget planned for fiscal year 2002 was $431 million but the economy of Guam was seriously weakened after 11 September 2001 because of the terrorist attacks, which caused a downturn in tourism, and the budget plans had to be revised. The revenues collected by the Government of Guam were $18 million below what was estimated for the first quarter of the fiscal year, and for the whole year a $60 million deficit was expected. To redress the situation, the Governor proposed a 10 per cent across-the-board salary reduction for all government employees and raising the gross receipts tax from 4 per cent to 6 per cent with an 18-month sunset provision.[12]

20. The Governor proposed that the Government of Guam borrow $427 million on the bond market for government retirement expenses. The pension bond money would be used to lower the Government's debt to its Retirement Fund and to lower the General Fund deficit. According to the Guam Economic Development Authority, this bond would more than double the Government's bond debt from $407 million to $834 million and push the island closer to the maximum allowed bond debt of $1.1 billion set by federal law.[13]

21. An independent year 2000 audit of how Guam spent its federal funds showed that the use of $38.3 million of that money was questionable and might have to be paid back.[14]

IV. Economy

A. General

22. The Guam economy is dominated by tourism, while the public sector (including the United States military) and construction remain important. Farming and fishing are relatively well developed. Vegetables, citrus and tropical fruits, coconuts and sugar cane are grown and livestock, especially poultry, is raised. Manufacturing include textiles, cement and plastics.[15]

23. According to the August 2001 Economic Report by the Bank of Hawaii on Guam, since 1999 the flow of public information on the economy has been limited severely, thus affecting the capacity of both the public and private sectors to make informed decisions. Among the causes of poor availability of economic data are the dismantling of the Guam Finance Commission and the lack of experienced staff in the Government of Guam.

24. Given the sketchy economic and financial data, according to the Bank of Hawaii report, there is no certainty with which to forecast any of the economic variables. Guam's economy slowed considerably in 1999, and has been in recession for three years. The end of 2001 was particularly difficult for Guam. Bankruptcies nearly doubled from 156 in 2000 to 287 in 2001, and 4,070 jobs were lost during 2001.[16] After 11 September 2001, Guam's economy fell into deep recession. Government revenues in the first quarter of fiscal year 2002 fell 20 per cent below the fiscal year 2001 figures and government receipts in the second quarter of the fiscal year were estimated to be 26 per cent below those of the same period in fiscal year 2001.

25. In the public sector, one-time structural changes that were implemented in 2000 will continue to affect economic indicators. These include, in particular, the downsizing of both the Government of Guam, through employee buyout and early retirement schemes, and the federal Government, through outsourcing of functions to the private sector. These measures have substantially reduced the size of the government sector's contribution to total economic output and are expected to add to a drag on the economy. The Government of Guam was reported to be saving about $700,000 per pay period as a result of its "early-out" initiatives, of which about 400 local government employees took advantage.[17] This downsizing of the Government of Guam has led to loss of experienced and trained staff, which has affected the provision of necessary services.[18]

26. The economy is still affected by the 1995 decision, in accordance with recommendations from the Base Realignment and Closure Committee, to shut down some military facilities on the island. According to one report, this caused a cumulative current dollar loss of $942 million between 1996 and 1999, and a loss of about 4,800 jobs (3,500 federal civil and 1,300 military).[19] There have been some meetings with civilian and military leaders about a potential increase in military activity on Guam.[20] It has been pointed out, however that these increases may not be financially significant in relation to the cost savings that resulted from the base closings in 1999. The stationing of three submarines in Guam by 2004 with an annual gross economic impact of approximately $7 million each (COMNAVMAR Briefing for members of the Guam Legislature, February 2001) and United States Marine Corps training activities on land that had earlier been slated for return to Guam represent the bulk of proposed increases in United States military activities.

27. In the private sector, an increase in revenues from tourism is possible in 2002, as the number of tourists is expected to increase after the serious downfall following 11 September. In the construction sector, many notable gains are foreseen in the near future.[21]

28. The economy of Guam is also influenced by global economic trends, and in particular by the economies of the United States and Japan. Given the importance of tourism to the Territory's economy, and the importance within the tourism sector of the Japanese market, the Guam economy tends to follow Japan's business cycle rather than that of the United States; Japan provided 53.9 per cent of the imports in 1999 and more than 81 per cent of Guam's visitors in 2000 were Japanese.

29. Guam is a duty-free port that facilitates the movement of raw materials for manufacturing. It also participates in two major trade programmes designed to promote export-oriented manufacturing: the Harmonized Tariff Schedule of the United States and the Generalized System of Preferences. Nonetheless, the Territory consistently records a trade deficit. The Department of Commerce reported the value of Guam's total exports to be $86.4 million in 1998. Major export commodities are fish and crustaceans ($44.9 million), mineral fuels, oils and waxes ($15.2 million), tobacco

and manufactured tobacco substitutes ($5.6 million) and automobiles ($3.1 million). Imports were valued at $52.1 million for January 1998, $42.8 million for April 1998, $58.3 million for July 1998 and $47.9 million for October 1998.[22]

B. Primary economic sectors

1. Agriculture and fisheries

30. The agriculture and fisheries sector has played a small role in the economy of Guam, accounting for less than 1 per cent of total private sector employment. The fishing industry, which began a major expansion in the late 1980s, continued to be important within the sector. During the period under review, negotiations began with a Norwegian company that raises salmon and trout for the Japanese market. The $30 million investment under consideration is expected to create 120 jobs and spawn support industries without damaging the environment.[23]

31. According to the Department of Commerce,[24] in 1998, the latest available figures, the dollar value of agricultural products was $2,263,566. Included in this group were fruits and vegetables, poultry, pork, beef and eggs, all produced mainly for local consumption.

2. Manufacturing/industry

32. One of the major industries on Guam, and the third most important economic sector (after tourism and the public sector), is construction. Construction as a generator of employment remains significantly above the average for the United States. The construction sector has been declining during the last decade, and that trend continued in 2001. Construction sector jobs decreased from 3,950 in 2000 to 2,810 in 2001.[25]

33. New activity is expected in the construction sector during 2002. Current important building projects include a federally funded $20 million project to improve the local airport, construction of a Japanese satellite tracking station and a mostly federally funded project of a reported $31.6 million to repair damage to government facilities and infrastructure caused by the 7.0 magnitude earthquake of 13 October 2001.[26] Furthermore, $66.2 million was granted for Guam in the fiscal year 2002 Military Construction bill.[27] In order to infuse cash into the economy, the Government of Guam has also issued $65 million in bonds for highway projects and infrastructure upgrade[28] and another $25.5 million for capital improvement projects.[29]

3. Tourism

34. Guam's tourist industry as well as much of its economy is dependent on Japanese tourism. In 2000, 81.4 per cent of tourists to Guam came from Japan, 6.8 per cent from the Republic of Korea, and only 3.7 per cent from Hawaii and the mainland United States combined.[30] According to the Governor, Guam wishes to open a new market for tourists from China by establishing a high-tech biometrics pilot programme that will entail issuing special visitor's cards for Chinese tourists to enter Guam.[31]

35. Contrary to expectations (see A/AC.109/2001/4, paras. 34-35) the number of visitors to Guam decreased in 2001. According to the Guam Visitors' Bureau, in 2001 tourist arrivals totalled 1,159,426, a 10 per cent drop from 2000. This decrease was primarily caused by the drop in air travel after 11 September and the downturn in the economic situation in Japan. As a result, more than 4,000 private sector jobs were lost on Guam and government revenues fell drastically. For the year 2002, some positive signs are seen by Guam's tourism industry. The number of Japanese and Korean tourists travelling overseas is expected to rise in 2002. Korean Air resumed service to Guam after a four-year halt due to the crash of one of its airliners in 1997. Several other airline companies have announced additional flights to Guam, after having reduced the number of their flights following 11 September.[32]

36. Guam had a total of 10,084 hotel rooms in 2001, an increase of 65 per cent since 1991. In 2000, the hotel occupancy rate was 63 per cent, while 80 per cent is considered a long-term optimal rate for hotel companies. In 2000, $20.6 million was collected in hotel occupancy taxes.[33]

C. Finance

1. Local financial services

37. According to the Bank of Hawaii Economic Report, bank deposits were at $1.38 billion in 2000, up from the 1999 figure of $1.32 billion. In 1997, the figure was as high as $1.46 billion. Bank loans decreased from the 1999 figure of $3.0 billion to $2.78 billion in 2000.[34]

2. International finance

38. The Government of Guam has adopted policies and laws with a view to establishing Guam as a financial service centre in the Pacific.

39. In July 2000, the Governor signed the Guam-Based Trust Companies Act (public law 25-149), which clarified the definition of Guam-based trusts in order to provide confidence for potential investors as well as federal regulatory bodies. The law made it clear that, as Guam's banking system was regulated by both federal and local law, business entities in Guam would have to file tax returns, unlike in other domiciles that have been labelled tax havens.[35]

40. As a result of the Guam-based trust initiative, 42 special qualifying certificates have been issued and 14 are still pending, representing a total of $198.8 million, which is expected to add $2.3 million annually to Guam's revenue. The trusts generate revenue for the Government of Guam despite the fact that 100 per cent of taxes on income are rebated to the trust. According to the new law, the Government holds tax revenues for 180 days. The interest accrued during this time is retained by Guam, and the initial tax levied is subsequently rebated in its entirety to the trust. The law also requires the trust's administration to be in Guam.[36]

41. According to the Guam Organic Law, United States tax law applies to Guam. As a result, foreign direct income in Guam is taxed at 30 per cent. This federal rate is often reduced in the 50 states, however, under one of over 50 tax treaties to which the United States is a party, but to which Guam, as an unincorporated Territory, is not. A section of the Guam Omnibus Opportunities Act, submitted in 2000, sought to reduce this rate to 10 per cent by amending the Organic Act to treat Guam as part of the United States insofar as the application of tax treaty provisions was concerned. The administration considered that the measure required further discussion, in particular regarding its interaction with the Guam-Based Trust Companies Act described above.[37] The provision was not included in the final version of the Guam Omnibus Opportunities Act and so did not become law. In January 2000, the provision was reintroduced by Guam's delegate to the United States Congress, Robert Underwood, as a bill, the Guam Foreign Investment Equity Act, which incorporates changes recommended by the Treasury Department. The bill, if it becomes law, will allow foreign investment in Guam to be taxed at the same treaty-negotiated rate as the 50 states. The bill passed the House of Representatives in May 2001 and was referred to the Senate.[38]

D. Transport and communications

42. According to the Governor in his annual address,[39] the system of public roadways has undergone considerable improvement, relieving traffic congestion and providing benefits for small businesses and residents. In February 2001, the Governor initiated an island-wide transportation master plan that will involve several relevant government agencies. One of the tasks of the plan's implementers will be to determine whether to leverage annual federal highway funds and other grants to finance a massive overhaul of all main roads and transportation systems. This project, expected to cost $150 million, would also improve road safety and lower long-term maintenance costs.

43. The Port Authority of Guam administers the commercial port facilities at Apra Harbour. The Port Authority is a public corporation and an autonomous agency of the Government of Guam. Guam's port is a major trans-shipment centre of the western Pacific and is equipped to move containerized bulk and tuna cargo efficiently. The port has, in recent years, seen an average annual increase of 23 per cent in cargo. The Port Authority is expanding its container yard and is planning to spend $100 million in reconstruction activities up to the year 2005.

44. The Port Authority of Guam has been operating in deficit since 1996, according to port officials. It needs $10 million to replace two ageing cranes.[40]

45. The refurbishment of the Guam International Airport's runway system is beginning in 2002. The first phase of the federally funded runway extension and renovation project is launched to extend the length of the two runways and to build a new taxiway to add safety to the airport. The whole project is expected to last two years and cost $20 million.[41] At present, Guam International Airport is the most modern in the western Pacific.[42]

46. RCA Global Communications and IT&E handle cablegrams, facsimile and telex messages and overseas telephone calls. The United States Postal Service handles mail delivery. Commercial mail delivery is also available through Federal Express and DHL. Guam has a daily newspaper, a newspaper published

three times a week, several weekly and monthly commercial publications and military journals. According to the Federal Communications Commission, there are currently 11 FM and 2 AM radio channels, 3 local television channels and one cable television service provider. The local television channels are capable of both analog and digital broadcasting.[43]

47. High-technology communications may represent an emerging growth sector for Guam. The Governor and Legislature have made information technologies a priority as part of a general effort to diversify the economy. Guam serves as major telecommunications hub for the Asia/Pacific rim: 41 telecommunications companies have offices in Guam, nine undersea cables go through Guam and a new undersea fibre-optic line will link Guam and Sydney, Australia.[44] A Japanese space satellite tracking station, being built on Guam by the National Space Development Agency of Japan, is expected to be ready in November 2002.[45]

48. The Government of Guam is currently privatizing the Guam Telephone Authority (GTA). The Government of Guam has set several requirements for the privatization, including a minimum $70 million cash bid, that the buyer assume GTA debt of $110 million with a federal agency and that the buyer also agree to keep more than 400 workers on the GTA payroll for five years.[46]

49. According to the Department of Commerce, there were 84,134 primary telephone lines registered in 1998. Of these, 43,444 were residential lines and 40,690 were business lines. Telephone Authority revenue in 1998 amounted to $37.8 million. Although revenues steadily increased between 1996 and 1998, it has remained below the peak of $41.2 million recorded in 1995.

E. Water system, sanitation and utilities

50. Approximately 74 per cent of the water supply is provided by the Guam Waterworks Authority. The remainder is produced by the Air Force and Navy installations on Guam. The Government's water sources are groundwater and surface water (Ugum River). The Navy water source is a surface reservoir (Fena Lake) in the southern part of the island. According to the Governor, the state of the water and sewerage system is poor. Leaks are frequent, posing significant health and environmental problems and inhibiting development. Furthermore, the 13 October 2001 earthquake was estimated to have caused $13.2 million in damage to the Guam Waterworks Authority.[47]

51. In his state of the island address, the Governor strongly advocated seeking a strategic private sector partner for the Guam Waterworks Authority. Preliminary discussions have been held between the local and federal governments about the possibility of unifying the three separate water and waste water systems of the Navy, the Air Force and the Guam Waterworks Authority.

52. The Guam Power Authority, an autonomous agency of the Government of Guam, is responsible for providing electricity throughout the island.

53. The privatization of the Guam Power Authority has begun. Private companies are operating several generators and private managers are scheduled to take over more power plants.[48] In November 2001, Hawaiian Electric Industries sold its wholly-owned subsidiary HEI Power Guam to Mirant, a global energy company based in the United States. HEI Power Guam had been originally formed to operate, repair and manage two 25-megawatt units in Guam for the Guam Power Authority.[49]

V. Military issues

54. Guam was administered by the United States Navy until 1950, and remains the site of extensive United States naval and air force installations. Petroleum storage, munitions stowage, extensive communications facilities and other service industries that cater to the military establishment form the basis of the military infrastructure in Guam.

55. The United States military presence and spending on Guam has decreased considerably during the last decade. In 2000, the Navy had about 4,000 military personnel, about 4,000 dependents and 2,000-3,000 contract civilian workers. The Air Force had about 1,800 military personnel, almost 2,200 dependents and less than 400 civilian workers (Air Force workers are "federal employees" as opposed to Navy employees who work for various contractors).[50] During the review period, it was reported that the United States military would transfer some Marine Corps drills from Okinawa, Japan, to Guam. The Marines would use the

old Air Force base on Guam for their training,[51] on property which the Air Force had earlier slated for return to Guam. The Navy is planning to homeport three Los Angeles class, fast-attack nuclear submarines in Guam. The first one, the *USS Corpus Christi*, is supposed to arrive in April 2002 and the second one, the *USS San Francisco*, in September 2002. Relocation of these submarines will add more Navy personnel to the base at Guam and some military construction for submarine repair and port facilities will also be done. The personnel of three submarines and the "submarine tender", the *USS Frank Cable*, which can perform nuclear vessel repairs, totals 650 persons and approximately $26 million in salary which would presumably be spent mostly within the military base.[52]

56. Following the terrorist attacks on 11 September, fighter jets and a guided missile cruiser were sent to Guam to protect the island from possible terrorist attacks.[53]

57. In March 2001, a survey conducted by the Guam Chamber of Commerce reported that 83 per cent of Guam's 445 registered voters supported an increase in military activity in Guam and agreed that it made "a positive contribution to Guam".[54]

VI. Land issues

58. As reported in previous working papers, the question of land use and ownership is a major and ongoing consideration on Guam. This question comprises two major issues: (a) the return of unused or underutilized lands held by the Department of Defense; and (b) the return of these lands to the original Chamorro landowners. The United States Government, principally its Department of Defense, currently holds title under United States law to over one third of the island. This land was condemned and acquired from private landowners by the Department of Defense during the years following the Second World War, when Guam was under the administration of the United States military, initially on a year-to-year lease between 1945 and 1950 and subsequently acquired by the United States Government through eminent domain procedures after the extension of citizenship. In 1994, Congress passed the Guam Excess Lands Act (public law 103-339) to return 3,200 acres to the people of Guam, which has begun to be implemented.

59. In February 2001, the Governor announced that 7,894 acres of excess land were being returned in title to the people of Guam and that the United States Air Force had announced that it would return a further 1,750 acres. He also noted the return by title of 1,806 acres at Tiyan in November 2000, which he said was the largest single transfer of federal property to the Government of Guam since the Organic Act in 1950. As reported previously (see A/AC.109/2000/6, para. 81, and A/AC.109/2001/14, para. 59) the procedure for returning excess military land allowed federal agencies to bid for land ahead of Guam. Congressman Underwood submitted legislation to correct this, the Guam Omnibus Opportunities Act, which was signed into law in November 2000. According to Congressman Underwood, the Act places Guam before other federal agencies with regard to bidding for excess lands. It also provides Guam with more flexibility by requiring the Government of Guam and the federal Fish and Wildlife Service to negotiate on the future management and ownership of lands in the wildlife refuge. This requirement gives Guam a greater, but not complete measure of control over these lands. As reported in previous working papers, the establishment of a wildlife refuge on 370 acres at Ritidian Point by the Department of the Interior had led to protests by Chamorro families. Discussions between officials of the Government of Guam and the United States Department of the Interior in 2000 to reach a compromise between original landowners and the Fish and Wildlife Service ended with no change of the latter's presence at Ritidian.

VII. Social conditions

A. General

60. The people of Guam are eligible to receive benefits under a variety of federal programmes, including Social Security, Medicare, aid to families with dependent children, aid to the blind, general assistance, old age assistance, aid to the permanently and totally disabled, food stamps and Medicaid. Territories, like states, may choose not to participate in grant programmes. Participation in these programmes requires accepting federal rules and guidelines and sometimes matching federal expenditures with local expenditures. In the case of Guam, such participation in addition to "matching federal expenditures with

local expenditures" requires that the Government of Guam pay nearly 80 per cent for many of the aforementioned programmes. Unlike states, which have a federal match based on the income level of the state, a cap has been established for Guam. Some of the "matching" programmes that are in effect in Guam and for which Guam pays a considerable share were eliminated in the United States in 1973 and replaced by the Supplemental Security Income (SSI) programme, which is federally funded.

61. In the absence of a Medicaid match (along with its federal requirements) Guam has established the Medically Indigent Program (MIP), fully funded by the Territory. This programme's cost in the fiscal year 2001 was over $25 million.

62. According to the 2001 census, 23 per cent of the population was living under the poverty line. Indicators of social assistance have been rising in recent years. According to the United States Food and Nutrition Service, participation in the food stamp programme rose from a monthly average of 5,609 households (17,783 individuals) in 1997 to 6,876 households (22,723 individuals) in 2001. The corresponding expenditures were $27.18 million and $35.88 million. In addition, the average monthly benefit per person rose from $127.38 in 1997 to $136.32 in 2001.[55] Total number of recipient families of Temporary Assistance for Needy Families in Guam almost doubled from 1,406 in January 1993 to 2,760 in June 2000.[56]

63. The Government of Guam's welfare expenses will rise sharply in July 2002, when more than 11,000 welfare recipients will be cut off from federally funded welfare programmes after having received welfare benefits for the maximum period of five years.[57]

B. Labour

1. General

64. The most recent figures available (March 2001) show that the total civilian labour force in Guam, in both the public and private sectors, is 69,560, of which 60,520 are employed. Unemployment was calculated at 13 per cent in March 2001. This is less than the unemployment rate of 14 per cent the previous year. However, unemployment did rise considerably after March. According to the Guam Department of Labor Employment Report, Guam lost 4,070 jobs during 2001, but the exact unemployment rate was not available at the time of writing.[58] Some private sector economists (Merrill Lynch and the Bank of Guam) have expressed the view that, if those who are no longer looking for employment are included, the unemployment rate is approximately 25 per cent (January 2002).

65. In 2001, over a quarter (28 per cent) of the workforce was in the service sector, of which over a third worked in hotels and other lodging places. The retail trade sector employed 20 per cent of the workforce, transportation and public utilities accounted for another 8 per cent, the construction sector for 7 per cent and the financial sector for 4 per cent. The rest of private sector employment is made up of wholesale trade (3.3 per cent), manufacturing (2.6 per cent) and agriculture (less than 1 per cent).

66. Some workers belong to unions based in the United States, such as the American Federation of Government Employees and the American Postal Workers Union. In 1991, 4,000 of 65,830 workers belonged to unions.[59] More recent figures on union membership are not available.

2. Public service

67. Both the Government of Guam and the federal Government in Guam undertook substantial downsizing measures in 2000. The Government of Guam undertook a buyout and early retirement programme, while the federal Government began outsourcing functions to private contractors. As a result, employment by the Government of Guam declined by 7.2 per cent from 13,540 to 12,560 jobs in fiscal year 2000. Federal jobs declined by 30.0 per cent, from 4,530 to 3,170 jobs in the same time period. The government sector now accounts for just over 26 per cent of total civilian employment. Between 1990 and 1999, the government sector's share averaged 30.0 per cent.[60] In 2001, the payroll of the Government of Guam grew by 140 and the federal Government payroll by 30 employees.[61]

68. A controversy arose in 2000 regarding the outsourcing of United States Navy jobs to a private company. In February 2000, the defence company Raytheon was awarded a $328.4 million contract to provide base operations support for United States Naval facilities on Guam (including administration, maintenance, supply, harbour operations, ordnance loading, etc.). Federal contract workers who had been

carrying out those functions were given the "right of first refusal" to the jobs under the Raytheon contract. According to Congressman Underwood, the wage rates offered by Raytheon were significantly lower than they had been under the Department of Defense. In April 2000, he and 28 other members of the House of Representatives called for the suspension of the implementation of Raytheon's contract until the wage question was re-examined.[38] As a result, the United States Department of Labor conducted a new survey, which concluded that Raytheon had based its wages on outdated wage scales. Consequently, the Department released updated scales that resulted in higher wages for nearly every outsourced job category.[62]

C. Education

69. Guam has an extensive public and private education system. The public education system includes the University of Guam, the Guam Community College, four public high schools, seven middle schools, and 27 elementary schools. The private system includes two business colleges, five high schools and several elementary schools. Most of these are affiliated with Roman Catholic and Protestant religious denominations. A new bill, the Guam Charter School Act, would allow the establishment of private charter schools independent from the Department of Education. According to the bill, if a student transfers from a public school to a charter school, 90 per cent of the public funds spent on that student will be transferred to the charter school.[63]

70. The University of Guam has master's degree programmes in eight subjects, operates a marine research laboratory and has an extensive collection of Pacific and Micronesian historical documents and material at the Micronesian Area Research Center. The University of Guam was placed on academic probation by the Western Association of Schools and Colleges in July 2000. The University was found not to have adequate library facilities or adequate financing. The Association recommended that the University ask for more funds from the legislature and that it prepare a financial plan. A team from the Association is expected to visit the University in spring 2002 to review the steps taken to address these and other accreditation concerns. If the University loses its accreditation, its degrees would be devalued and federal scholarships would be lost. After a lengthy period of leadership crisis, a new president was selected to lead the institution. The new president of the University, Harold Allen, plans to reach out to local businesses and government to raise money for the institution.[64]

71. According to the latest available statistics from the Department of Education, total school enrolment (public and private, but not including the Guam Community College) in 1998/99 was 39,405, of which 5,034 were enrolled in private schools. In the same period, there were 2,073 public school teachers. In 1999, 1,741 high school students graduated, prolonging a trend of steadily increasing graduates since 1994/95. In the same period, there were 2,385 full-time students enrolled in the University of Guam, out of a total enrolment of 3,784. The University also enrolled 265 students from former United States Trust Territories (the majority coming from Palau and Truk). Guam's operational budget for education in 1998/99 was $165 million (approximately $5,000 per student).

D. Public health

72. According to the World Health Organization,[65] the people of Guam enjoy a healthy status. Infant and maternal mortality rates are low. Virtually all births take place in a medical setting and most pregnant women receive prenatal care from a trained health care worker during pregnancy. Illnesses that contribute to population morbidity and mortality are generally related to lifestyle.

73. The United States Centers for Disease Control reported in March 2000 that there were 42 people living with the human immunodeficiency virus (HIV) and 24 with acquired immunodeficiency syndrome (AIDS). The rate of AIDS cases increased between 1998/99 and 1999/00 from 4.7 per 100,000 to 11.8 per 100,000.[66]

74. Guam has a 192-bed hospital, the Guam Memorial Hospital, and a United States Naval Hospital that serves military personnel and their dependants. In the mid-1990s, there were around 140 physicians and 30 dentists on Guam. According to the World Health Organization,[67] a reduction in human and financial resources has severely impacted the health system in Guam. In addition, the early retirement programme resulted in a decrease in experienced health workers.

75. Federal programmes approved by the United States Department of Health and Human Services apply

on Guam. The non-voting representatives of all United States Territories (American Samoa, Guam, Puerto Rico and the United States Virgin Islands) co-sponsored legislation in September 2000 to revise federal-local ratios for Medicaid payments in the Territories. Currently, the territorial Governments must pay 50 per cent of Medicaid costs, while the federal Government pays the other 50 per cent. The poorest states in the United States, however, enjoy a federal-local payment ratio of 75:25. The territorial representatives are requesting a 75:25 ratio on the grounds that all four Territories have lower per capita incomes than the poorest state. The bill would also remove caps on Medicaid spending. The cap of $5.4 million on federal Medicaid spending on Guam makes it increasingly difficult for the Government of Guam to match the required funds. Despite the efforts, the federal-local ratio for fiscal years 2002 and 2003 is set at 50:50.[68]

76. According to the Health Care Financing Administration's statistics, Medicaid spending in Guam in 2000 was $10.9 million, a slight decline from the peak of $11 million in 1996, but up from the $9.3 million in 1999.[69]

E. Housing

77. Among lands turned over to the Government of Guam by the United States military are those known as "crown lands", comprising six dormitories and 360 housing units. According to the Governor, these are to be turned into low- and moderate-income housing developments.[70]

F. Immigration

78. A major issue in the federal Government's relations with Guam is the migration from the freely associated states of the Marshall Islands, the Federated States of Micronesia and Palau. The Compact of Free Association Act of 1985, which established the relationship between the United States and the Federated States of Micronesia, and the Marshall Islands, authorized unrestricted migration from those Pacific island nations to the Territories and possessions. This enabled citizens of those islands to enter Guam and to lawfully engage in occupations as non-immigrant aliens.[71] These immigrants and their American-born children have settled in Guam, Hawaii and the Northern Mariana Islands. This has strained the resources of the recipient states and Territories.

79. In order to reimburse Guam and other compact Territories for the cost of providing government services for regional immigrants, the federal Government has issued compact impact funding. In 2001, Guam received $9.58 million and in 2002 Guam will receive $6.38 million from the federal Government to compensate Guam for costs incurred as a result of unregulated immigration from Micronesia.[72]

80. In addition, the immigration policies currently applied to Guam have resulted in a considerable growth in migration from countries, particularly the Philippines, into Guam. The 2000 census indicates that, while the Chamorro population stood at 65,243, the non-Chamorro population was 86,798.

81. Guam also has in place a special visa waiver programme to encourage tourism. According to this programme, citizens of certain foreign countries need not apply for a visa before visiting Guam, although the visa applies only to Guam, and not to the rest of the United States. The arrival of about 700 people from Myanmar in December 2000 caused the programme to be suspended for Myanmar citizens by the Immigration and Naturalization Service at the request of the Governor of Guam. People from Myanmar were arriving in Guam and immediately seeking political asylum in the United States, contrary to the purpose of the waiver programme.[73]

G. Human rights and related issues

82. The question of human rights on Guam is mostly centred on the rights of indigenous peoples. The 1990 census revealed that more than half the population of Guam consisted of immigrants. One effect of significant recent immigration to the Territory has been to raise the awareness of the Chamorros as a people with specific rights to be protected within the framework of Guam's status as a Non-Self-Governing Territory and as an indigenous people. This has in turn led to disagreement with the United States over its position on the draft United Nations declaration on the rights of indigenous peoples. In 1996, the twenty-third Legislature of Guam adopted resolution No. 469 (LS) stating that the people of Guam did not support or endorse the United States' position on the draft declaration and called upon the United States to

conduct a legitimate consultation with the indigenous Pacific peoples. According to statements made by the Governor of Guam and the Congressman, the differences revolve around the failure of the United States to recognize collective rights as distinct from individual rights (the latter being already guaranteed by the Universal Declaration of Human Rights), and in particular the collective right as an indigenous people to self-determination.[74]

83. The question of a recognized separate identity for the Chamorros impinges on the question of self-determination that was included in the Commonwealth Act and in the Guam laws that provide for a process of determining the preference for a decolonized status. Both the Commonwealth Act and the above-mentioned laws establish requirements for the eligibility to vote that correspond to the United States assumption of sovereignty in Guam. The United States opposes any restriction on eligibility to participate in Guam's self-determination process, arguing that the right of self-determination must be exercised by all the people of Guam, and that any limitation would violate the right for equal treatment under the law that is guaranteed by the United States Constitution. Under United States law, this equal protection requirement extends to any United States citizen who is resident in Guam for 30 days.

VIII. Environment

84. Guam continues to experience environmental problems related to the United States occupation during the Second World War (see A/AC.109/2001/4, para. 83). In 2001, press articles reported the discovery of high levels of polychlorinated biphenyls (PCBs) in fish taken from waters near the Navy's old landfill at Orote Point. Locals were advised not to eat seafood taken from the contaminated waters, because PCB chemicals are suspected of causing a wide variety of serious health problems. Fish samples were taken by officials to determine how far the PCBs had spread and what the source or sources of the pollution were. The Navy was also inspecting what health risks the residents of the nearby area might face if they ate contaminated seafood. The results had not yet been published at the time of writing.[75] In January 2002, the Navy agreed to pay $42,000 in fines and spend $380,000 to improve its waste management, after the United States Environmental Protection Agency found that the Navy Public Works Center had handled hazardous waste poorly in the year 2000.[76]

85. An important step to clean PCB-contaminated areas on Guam was taken in 2001, when the United States Environmental Protection Agency approved a rule allowing PCB-contaminated materials to be shipped from Guam and the other United States territories to the mainland United States for disposal.[77] Until that time the United States prohibited the importation of materials contaminated with PCB from Guam and other United States territories outside the United States customs zone. This effectively prevented the Department of Defense from moving its contaminated materials back to the United States for proper disposal.

IX. Relations with international organizations and entities

A. United Nations system

86. Guam is an associate member of the Economic and Social Commission for Asia and the Pacific. WHO carries out training projects in Guam. In addition, Guam has been involved in the Multilateral High-level Conferences on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific, which originated under the United Nations Convention on the Law of the Sea and related conventions.

B. Regional organizations and entities

87. Guam was a member of the Pacific Basin Development Council, based in Honolulu and dedicated to promoting the economic development of American Samoa, Guam, Hawaii and the Northern Mariana Islands. The group's board members were the Governors of Guam, the Northern Mariana Islands and American Samoa. On 30 September 2000, the Council was dissolved in order for a charter and new by-laws to be drafted. The group ran into financial problems when Hawaii withdrew in 1999.[78]

88. Guam is a member of the Secretariat of the Pacific Community, a 27-member organization dedicated to providing technical advice, assistance, training and research to promote the development of its members.

X. Future status of the Territory

A. Position of the territorial Government

89. In a statement to the Caribbean Regional Seminar, held in Havana, Cuba, from 23 to 25 May 2001, the Governor of Guam, Carl T. C. Gutierrez, said that the leadership of Julian Hunte, Minister for Foreign Affairs of Saint Lucia and Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, came at a critical time for those who remained on the list of Non-Self-Governing Territories and that they stood ready to work with the Chairman and the Special Committee to advance the movement towards self-government. He also thanked Peter Donigi of Papua New Guinea for his continuing efforts for meaningful dialogue on status issue, his interest in Guam and his visit to the island in 2000. He expressed the hope that discussions on the Question of Guam could commence as they had with American Samoa.

90. The Governor of Guam stated that, as the United Nations embarked on its Second International Decade for the Eradication of Colonialism, he was sure that the people in all the Non-Self-Governing Territories would agree that there was no substitute for their views when deciding their futures. It was also critical that full self-government be the objective of all efforts to remove a Territory from the list of Non-Self-Governing Territories. De-listing without achieving full self-government would simply push the issue of self-governance on to future generations. He said that Guamanians were Americans and they generally viewed their citizenship and the United States military interests in Guam as integral parts of their lives. Their goal was more meaningful participation in their relationship with the United States, to have more say in the laws, rules and regulations that governed them. Unfortunately, the United States Constitution, with all its liberties, was not written with America's small offshore islands in mind. He stood before the Seminar as a proud American, saved from the hells of war and carried from a concentration camp by an American soldier. Nothing could erase from his mind and soul the real freedom that was represented by the United States.

91. The people of Guam only wished to educate their fellow Americans about their desire for more meaningful participation and would continue to carry that message to the United States Government. Guam supported United States regional military activity on its territory. Such support was grounded in their own experiences; they knew what it was to be vulnerable and they enjoyed the security and protection of being part of the United States. Over the past decade, however, the United States military's impact on Guam's economy had been greatly reduced, from more than 8,000 civilian employees in 1992 to less than 2,000 currently. Up to 10,000 Chamorros had left their homeland in Guam as a direct and indirect result of those changes.

92. The Governor concluded his statement by urging the Special Committee to keep the playing field level between the world's largest nations and the world's smallest jurisdictions. On a level playing field, the agreements reached would be stronger and more likely to be lasting. He thanked the Special Committee for its work on the resolution adopted in 2000. It correctly defined the nature of their current discussions with the United States. It accurately reflected an end to discussions on a "commonwealth" and the directives under Guam law for a decolonization vote. Those were important clarifications and they appreciated the fact that those changes were endorsed by the General Assembly.

B. Position of the administering Power

93. In a statement made to the 82nd meeting of the General Assembly, on 10 December 2001 (see A/56/PV.82), the representative of the United States said that his country was fully supportive when countries chose independence and was proud to work with them on an equal and sovereign basis. For Territories that did not chose independence, however, the United States also supported the right of people in those Territories to a full measure of self-government, if that was what they chose. The United States reaffirmed its respect for their rights, which included the options of integration and free association. Given the vast variety of people, places and political circumstances that existed in the world, the United States believed that a single standard of decolonization should not be applied to every Territory and it called on all Member States to respect the choices made by the residents of Non-Self-Governing Territories.

94. In that regard, he said, the United States could not support the draft resolution on the implementation of

the Declaration on the Granting of Independence to Colonial Countries and Peoples. The draft resolution unfairly applied a single and narrow standard for decolonization. Indeed, for the United States, the term "non-self-governing" was of questionable applicability to those who were able to establish their own constitution, who elected their own public officers, who had representation in Washington, D.C., and who chose their own economic path. Moreover, he said, the United States could not agree with the implication in the draft resolution that the mere presence of military activities and bases in the Non-Self-Governing Territories was harmful to the rights and interests of the people of those Territories. The United States could not support language that would infringe on the sovereign right of the United States.

95. More detailed information on the position of the administering Power with regard to Guam's commonwealth proposal may be found in the previous working paper (A/AC.109/2000/6, paras. 101 and 102).

C. Consideration by the United Nations

96. On 10 December 2001, the General Assembly adopted, without a vote, resolution 56/72 B, section VI of which deals with Guam.

Notes

[1] The information contained in the present working paper was derived from published sources, including Internet sites.

[2] *Pacific Daily News*, 9 February 2002.

[3] National Centre for Health Statistics (www.cdc.gov/nchs).

[4] Department of the Interior, Office of Insular Affairs, *Fact Sheet*, 1998.

[5] *Pacific Daily News*, 9 February 2001.

[6] *Governing Guam Before and After the War*, Guam Political Status Education Coordination Committee, Agana, Guam, 1994, p. 137.

[7] *Pacific Daily News*, 20 January 2002.

[8] News release, Congressman Underwood, 9 September 2000.

[9] Ibid., 29 June 2001.

[10] *Pacific Islands Report*, 25 January 2002.

[11] *Pacific Daily News*, 2 October 2002.

[12] State of Our Island Address, Carl T. C. Gutierrez, Governor of Guam, 14 February 2002.

[13] *Pacific Daily News*, 22 January 2002.

[14] Ibid., 19 January 2002.

[15] *Encarta Online Deluxe* (www.encarta.com.au), "Guam".

[16] *Pacific Daily News*, 7 February 2002.

[17] Ibid., 9 January 2001.

[18] Bank of Hawaii, Economic Report on Guam, August 2001.

[19] *Guam Annual Economic Review, 1998-1999*, Guam Department of Commerce, Tiyan, p. 41.

[20] *Pacific Daily News*, 9 January 2002.

[21] State of Our Island Address, Carl T. C. Gutierrez, Governor of Guam, 14 February 2002.

[22] Ibid., pp. 34 and 35.

[23] State of Our Island Address, Carl T. C. Gutierrez, Governor of Guam, 3 February 2001.

[24] All Department of Commerce citations refer to statistics compiled on the Department's web site (www.admin.gov.gu/commerce).

[25] *Pacific Daily News*, 7 February 2002.

[26] Ibid., 25 January 2002, 25 July 2001.

[27] News release, Congressman Underwood, 22 September 2001.

[28] *Pacific Daily News*, 2 October 2001.

[29] Developing Guam, Second Quarter Report 2001, vol. 2, issue 2, Guam Economic Development Authority 2001.

[30] Bank of Hawaii, Economic Report on Guam, August 2001.

[31] State of Our Island Address, Carl T. C. Gutierrez, Governor of Guam, 14 February 2002.

[32] Ibid.

[33] Bank of Hawaii, Economic Report on Guam, August 2001.

[34] Ibid.

[35] *Pacific Daily News*, 6 July 2000.

[36] Developing Guam, Guam Economic Development Authority, Third Quarter Report, 2000, vol. 1, issue 3.

[37] Statement of the Deputy Assistant Secretary for Policy and International Affairs, United States Department of the Interior, to the House Committee on Resources, 13 April 2000.

[38] News release, Congressman Underwood, 21 January 2002.

[39] State of Our Island Address, Carl T. C. Gutierrez, Governor of Guam, 3 February 2001.

[40] *Pacific Daily News*, 6 May 2002.

[41] Ibid., 2 January 2002.

[42] Bank of Hawaii, Economic Report on Guam, August 2001.

[43] www.fcc.gov.

[44] http://www.privatize.gtaguam.com.

[45] *Pacific Daily News*, 25 July 2002.

[46] Ibid., 23 January 2002.

[47] Ibid., 10 December 2001.

[48] *Pacific Islands Report*, 7 May 2001.

[49] Ibid., 28 November 2001.

[50] Bank of Hawaii, Economic Report on Guam, August 2001.

[51] *Pacific Daily News*, 17 July 2001, 17 June 2001.

[52] News release, Congressman Underwood, 13 June 2001.

[53] *Pacific Islands Report*, 17 September 2001.

[54] *Pacific Daily News*, 21 March 2001.

[55] Food and Nutrition Service web page (www.fns.usda.gov/pd/fspmain.htm).

[56] The Administration for Children and Families web page (www.acf.dhhs.gov).

[57] *Pacific Islands Report*, 7 May 2001.

[58] *Pacific Daily News*, 7 February 2002.

[59] "United States External Territories: Guam", *The Europa World Year Book 2000*, 41st edition, vol. II.

[60] Bank of Hawaii, Economic Report on Guam, August 2001.

[61] *Pacific Daily News*, 7 February 2002.

[62] News release, Congressman Underwood, 23 August 2000.

[63] *Pacific Daily News*, 30 January 2002.

[64] Ibid., 6 November 2000.

[65] www.wpro.who.int, country profiles, Guam.

[66] www.cdc.gov/hiv/stats/hasr1201/table1.htm and table2.htm.

[67] www.wpro.who.int, country profiles, Guam.

[68] Centers for Medicare & Medicaid Services' web page (www.cms.hhs.gov).

[69] Ibid.

[70] State of Our Island Address, Carl T. C. Gutierrez, Governor of Guam, 3 February 2001.

[71] United States Department of the Interior, Office of Insular Affairs, *Report on the State of the Islands, 1999*, chap. 4.

[72] News release, Congressman Underwood, 12 October 2001.

[73] Agence France Presse report, 21 December 2000.

[74] Statement by Governor Gutierrez during the United States consultation with Pacific indigenous peoples, 21 August 1996.

[75] *Pacific Daily News*, 25 January 2002.

[76] Ibid., 11 January 2002.

[77] *Pacific Islands Report*, 8 June 2001.

[78] Ibid., 25 April 2000.